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Issue Date: 02 May 2019

OALJ Case No.: 2019-TLC-00051
ETA Case No.: H-300-18323-358867

In the Matter of:

FOX HONEY FARM,
Employer.

NOTICE OF ASSIGNMENT AND ORDER OF REMAND

On or about February 25, 2019, the Office of Administrative Law Judges received a submission from Fox Honey Farm (“Employer”) in which it submitted proof of its workers’ compensation insurance for the state of Florida. In order to clarify and confirm whether this submission constituted an appeal of the Chicago National Processing Office’s (“CNPC”) final determination in this matter, the Office of Administrative Law Judges requested a copy from CNPC of the final determination, if any, issued by CNPC in this matter. CNPC provided a copy of its February 15, 2019 denial letter. The denial letter states, in pertinent part, that Employer’s application had been accepted for processing on December 7, 2018, however, Employer had not submitted a copy of its Florida workers’ compensation policy which was requested by the CNPC on several occasions, including by emails on January 28, 2019 and February 7, 2019. On February 8, 2019, Employer informed the CNPC that it had not yet received notification of workers’ compensation coverage from its insurer. As Employer did not provide the required evidence of workers’ compensation coverage in the state of Florida, CNPC denied the Employer’s application for one H-2A worker by final determination dated February 15, 2019. No other basis for denial of certification was stated in the denial letter.

An appeal in this matter was docketed by the Office of Administrative Law Judges and on May 1, 2019, this matter was assigned to the undersigned, Administrative Law Judge Sean M. Ramaley, for hearing and decision. All future correspondence should be addressed to the undersigned at the above address. The undersigned is still awaiting receipt of the complete Administrative File from the Certifying Officer (“CO”). However, a review of the limited file which is available indicates that there has been a lengthy delay in the processing of this appeal due in part to confusion as to whether Employer’s submission constituted an appeal. (It is also unclear whether the appeal is a request for de novo hearing or administrative review.)

ORDER

In light of the fact that Employer’s submission (a copy of its Florida Worker’s Compensation Insurance policy) appears to cure the only basis for the denial of certification in this matter and also acknowledging that an undue delay in processing this appeal of over two

months has occurred, the undersigned hereby **REMANDS** this matter to the Certifying Officer for consideration of the Employer's submission and a determination as to whether a grant of certification is appropriate.

SO ORDERED.

SEAN M. RAMALEY
Administrative Law Judge