



Issue Date: 29 March 2012

BALCA Case No.: 2012-TLN-00029

ETA Case No.: C-12009-57095

In the Matter of:

WELL SERVICE & SUPPLY, INC.,
Employer

Certifying Officer: William L. Carlson
Chicago National Processing Center

Before: **WILLIAM S. COLWELL**
Associate Chief Administrative Law Judge

ORDER OF DISMISSAL

On March 27, 2012, the Board of Alien Labor Certification Appeals (“BALCA” or “the Board”) received a letter from the Employer requesting review of the Certifying Officer’s determination in the above-captioned temporary labor certification matter.

The H-2B regulations provide that an employer must send its request for administrative review of a denial of temporary labor certification to BALCA within ten calendar days of the date of the determination. 20 C.F.R. § 655.33(a)(1). The CO denied the Employer’s application on February 29, 2012, but BALCA did not receive the Employer’s request for review until March 27, 2012. With the Employer’s request for review, it submitted a copy of a letter to the CO dated March 10, 2012, requesting reconsideration pursuant to 20 C.F.R. § 656.26(a) and (b).¹

The Employer failed to comply with the H-2B regulations’ clear requirement that an employer send its request for review to BALCA within ten calendar days of the date of determination. Accordingly, the Employer’s request for review is not timely, and the

¹ Twenty C.F.R. Part 656 governs the permanent labor certification program, and the Employer’s argument that it has 30 days to request BALCA review following the CO’s determination erroneously relies on the permanent labor certification regulations.

CO's determination has become the final determination of the Secretary of Labor. *See generally Raspberry Moon, Inc., 2007-INA-16 (June 12, 2007).*

Based on the foregoing, I find that the above-captioned appeal is untimely, and must be **DISMISSED**.

For the Board:

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WILLIAM S. COLWELL

Associate Chief Administrative Law Judge