



Issue Date: 29 June 2018

BALCA Case No.: 2018-TLN-00146
ETA Case Nos.: H-400-18068-553590

In the Matter of:

R STUCCO, LLC,
Employer.

Before: **WILLIAM T. BARTO**
Administrative Law Judge

ORDER APPROVING WITHDRAWAL OF REQUEST FOR REVIEW

This matter arises under the labor certification process for temporary non-agricultural employment in the United States under the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, and the associated regulations promulgated by the Department of Labor at 20 C.F.R. Part 655, Subpart A. This is commonly referred to as the H-2B Nonimmigrant Visa Program. The H-2B visa classification applies to an individual coming to the United States as a temporary worker in a non-agricultural job with no plans to stay permanently. An employer who wants an H-2B visa must first obtain a "temporary labor certification" from the Department of Labor ("DOL").

On May 30, 2018, the Certifying Officer (CO) denied Employer's *Application for Temporary Employment Certification*. On the same day, Employer requested administrative review of the CO's decision by the Board of Alien Labor Certification Appeals (the "Board"). On May 31, 2018, I was assigned to hear the appeal. On June 8, 2018, the CO submitted a copy of the administrative file for review. On June 9, 2018, Employer indicated via electronic mail that it wished to withdraw the request for review. Due to technical difficulties, the request was not received and processed by the Office of Administrative Law Judges until June 18, 2018.

An employer may withdraw an application for temporary labor certification any time after it is accepted until it is adjudicated by the Board. 20 C.F.R. § 655.62. As the

Board has not yet adjudicated Employer's application, withdrawal is permissible. See *id.* Accordingly, Employer's request to withdraw its application is hereby **APPROVED**.

SO ORDERED.

For The Board:

WILLIAM T. BARTO
Administrative Law Judge