



**Issue Date: 12 February 2021**

BALCA Case Nos.: 2021-TLN-00011

ETA Case Nos.: H-400-20304-893233

*In the Matter of:*

COBRA STONE, INC.,  
*Employer.*

**DECISION AND ORDER AFFIRMING DENIAL OF CERTIFICATION**

This case arises from Cobra Stone, Inc.'s ("Employer") request for review of the Certifying Officer's decision to deny its application for temporary labor certification under the H-2B non-immigrant program. The H-2B program permits employers to hire foreign workers to perform non-agricultural work within the United States on temporary basis. *See* 8 U.S.C. § 1101(a)(15)(H)(ii)(b); 8 C.F.R. § 214.2(h)(6); 20 C.F.R. § 655.6(b). Employers who seek to hire foreign workers under this program must apply for and receive labor certification from the United States Department of Labor using a Form ETA-9142B, *Application for Temporary Employment Certification*. A certifying officer in the Office of Foreign Labor Certification of the Employment and Training Administration reviews applications for temporary labor certification. If an employer receives an unfavorable determination from the certifying officer, it may request administrative review by the Board of Alien Labor Certification Appeals ("BALCA"). 20 C.F.R. § 655.61(a).

Employer filed its applications for temporary labor certification on October 30, 2020. Appeal File, pp. 57-71. The Certifying Officer issued a final determination on December 14, 2020. Appeal File, pp. 13-23. Under the regulations, an employer must file its request for administrative review with BALCA within 10 business days from the date of the certifying officer's determination. 20 C.F.R. § 655.61(a). Taking federal holidays into account, Employer's appeal was due no later than December 30, 2020. *See* 29 C.F.R. § 18.32(a); Executive Order No. 13965 (issued Dec. 11, 2020) (closing federal agencies on December 24, 2020). Employer did not submit its request for administrative review until January 14, 2021. Appeal File, pp. 1-12. Accordingly, Employer's request was untimely and the Certifying Officer's final determinations will be affirmed.

**ORDER**

Based on the foregoing, IT IS ORDERED that the Certifying Officer's final determination denying Cobra Stone, Inc.'s application for temporary labor certification is AFFIRMED.

**SO ORDERED.**

PAUL C. JOHNSON, JR.  
District Chief Administrative Law Judge

PCJ/PML/ksw  
Newport News, Virginia