



State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
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Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

September 17, 2009

Commissioner Leslie Schecter Newman
Tennessee Department of Commerce &
Insurance
5th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243-5065

Elaine Rogers, Corporate Secretary
Prentice Industrial Service, Inc.
P.O. Box 761
Bells, TN 38006

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Administrative Services Assistant III
Tennessee Department of Commerce &
Insurance
Insurance Division – Actuarial Services Section
4th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243-1133

RE: In the Matter of: Prentice Industrial Service, Inc. and Liberty Mutual Insurance Co.
Docket No. 12.28-103472A

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

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RECEIVED

SEP 21 2009

DEPT. OF COMMERCE & INSURANCE
TN POLICY ANALYSIS SECTION

**BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

**PRENTICE INDUSTRIAL SERVICE, INC.
AND LIBERTY MUTUAL INSURANCE CO.**

DOCKET NO.: 12.28-103472A

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **October 2, 2009**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 EIGHTH AVENUE NORTH, 8th FLOOR
NASHVILLE, TENNESSEE 37243-0307

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:)
)
PRENTICE INDUSTRIAL SERVICE, INC.,) **DOCKET NO. 12.28-103472A**
)
v.)
)
LIBERTY MUTUAL INSURANCE CO.)

MOTION FOR DISMISSAL GRANTED;

HEARING CANCELLED

This matter was set for hearing on September 21, 2009, before the Commissioner's Designee. Mattielyn B. Williams, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, was to sit with the Commissioner's Designee to rule on evidentiary and procedural matters. Elaine Rogers, Corporate Secretary for Appellant Prentice Industrial Service, Inc. (Prentice Industrial Service) has been speaking on its behalf. Attorney Scott J. Crosby, of the Memphis bar, is representing Liberty Mutual Insurance Company (Liberty Mutual).

Liberty Mutual filed a Motion to Dismiss this matter as untimely on July 8, 2009. The Undersigned's opening letter of July 24, 2009, informed Prentice Industrial Service that, "If no timely response is filed, it will be assumed that Prentice Industrial Service has no objection to the motion."

As of September 16, 2009, less than one (1) week before the hearing, Prentice Industrial Service has not filed a response; therefore, Liberty Mutual's motion is hereby **GRANTED.**

Accordingly, it is hereby **ORDERED** that the September 21, 2009 hearing is **CANCELLED** and that the instant matter is **DISMISSED** as **UNTIMELY**.

In the absence of an affirmative statement from Prentice Industrial Service, agreeing with the dismissal, out of an abundance of caution, this Order is issued as an Initial Order, with appeal rights, because it is dispositive of the matter.

This Initial Order entered and effective this 17TH day of September , 2009.


Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 17TH day of September , 2009.


Thomas G. Stovall, Director
Administrative Procedures Division

**APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES**

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.