



**Issue Date: 04 June 2013**

**OALJ Case No.: 2013-TLC-00032**

**ETA Case No.: 13098-186091**

*In the Matter of:*

**INTERNATIONAL EASY LABOR, INC.,**  
*Employer*

Certifying Officer: Chicago National Processing Center

Before: **PATRICK M. ROSENOW**  
Administrative Law Judge

### **DECISION AND ORDER**

This matter arises under the temporary agricultural labor provisions of the Immigration and Nationality Act, 8 U.S.C. §§ 1101(a)(15)(H)(ii)(a) and 1184(c)(1), and the implementing regulations at 20 C.F.R. Part 655, Subpart B. This Decision and Order is based on the written record, consisting of the Appeal File (“AF”) forwarded by the Employment and Training Administration, and the written submissions of the parties.

On April 8, 2013, Employer submitted its application for H-2A temporary labor certification of 40 farm laborers,<sup>1</sup> and on April 15, 2013, the Chicago National Processing Center issued a Notice of Deficiency detailing the application’s deficiencies and the modifications required for acceptance.<sup>2</sup> On April 30, 2013, the CO denied temporary labor certification on the grounds that Employer neither submitted a modified application within twelve calendar days after the Notice of Deficiency was issued, nor requested an expedited administrative appeal or a de novo hearing, in accordance with regulations at 20 C.F.R. § 655.142.<sup>3</sup> Employer appealed the denial to the Office of Administrative Law Judges and requested administrative review in accordance with 20 C.F.R. § 655.171(a). In administrative review cases, the administrative law judge has five working days after receiving the administrative file to issue a decision on the basis of the written record after due consideration of any written submissions not including new evidence.<sup>4</sup> The AF in this case was received on May 28, 2013. The parties were given until June

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<sup>1</sup> AF 41-50.

<sup>2</sup> AF 4-17.

<sup>3</sup> 20 C.F.R. § 655.142(a) states that the application will be deemed abandoned if the employer fails to submit a modified application within twelve calendar days after the notice of deficiency is issued.

<sup>4</sup> 20 C.F.R. § 20 C.F.R. § 655.171(a).

3, 2013 to file appeal briefs. The Department of Labor Office of the Solicitor filed a brief on behalf of the CO on June 3, 2013. No brief was received from Employer.

### **DISCUSSION**

In its request for appeal, Employer stated that it had never received any notices from the Chicago National Processing Center, and that the only correspondence it obtained prior to the denial was that the Center had received its application and assigned it a case number. In accordance with the regulation at 20 C.F.R. 655.171, administrative review may not include new evidence submitted by the parties, and is limited to the evidence that was the basis of the CO's denial determination. Employer submitted neither evidence nor argument to corroborate its assertion that it never received the CO's Notice of Deficiency. There is no evidence in the record before the CO that Employer responded to the Notice of Deficiency or timely tried to correct the deficiencies in its application. Based upon the limited evidence, I must affirm the CO's denial of Employer's application for temporary labor certification.

**ORDERED** this 4<sup>th</sup> day of June, 2013, at Covington, Louisiana.

**PATRICK M. ROSENOW**  
**Administrative Law Judge**