



**New Jersey Department of Labor
and Workforce Development,
Petitioner,**

v.

**H. Kees and Sons, Inc.,
Respondent**

**STATE OF NEW JERSEY
DEPARTMENT OF LABOR
AND
WORKFORCE DEVELOPMENT**

**FINAL ADMINISTRATIVE ACTION
OF THE
COMMISSIONER**

**OAL DKT. NO. LID 09994-20
AGENCY DKT. NO. N/A**

Issued: December 16, 2021

The New Jersey Department of Labor and Workforce Development (Department or petitioner) notified H. Kees and Sons, Inc. (Kees or respondent) by letter, dated May 19, 2020, that respondent's application for renewal of its public works contractor registration had been denied for failure of respondent to certify to its participation in a registered apprenticeship program, as required under the New Jersey Public Works Contractor Registration Act (CRA), N.J.S.A. 34:11-56.48, et seq.; specifically, N.J.S.A. 34:11-56.52. Respondent requested a hearing with regard to the application denial and the matter was transmitted to the Office of Administrative law (OAL) for a hearing before Administrative Law Judge (ALJ) Kim C. Belin.

Prior to a hearing, petitioner filed a motion before the ALJ, pursuant to N.J.A.C. 1:1-12.5, for summary decision. The ALJ granted petitioner's motion for summary decision, explaining in pertinent part that:

- (1) N.J.S.A. 34:11-56.52 requires that a contractor who seeks to register with the Department under the CRA must, if directly employing craftworkers, certify that it participates in a registered apprenticeship program for each craft that it employs,
- (2) By respondent's own account he employs the craft of "Fence Installer" directly upon public work (See Exhibit P-3),

(3) The occupation of “Fence Erector” (synonymous with “Fence Installer”) is included on the United States Department of Labor (USDOL) “List of Occupations” officially recognized as “Apprenticeable” (See Exhibit P-13), and

(4) By respondent’s own account, he does not “participate,” as that term is defined at N.J.A.C. 12:62-2.1(h), in a registered apprenticeship program for the craft of Fence Erector.

As to respondent’s assertion that the statutory mandate of participation in a registered apprenticeship program as a condition to being registered with the Department to perform public work does not apply to Kees as a small business owner, the ALJ found that Kees had “presented no legal support for this assertion, nor is there any language within the [law or] regulations which exempts small business owners.” Thus, again, the ALJ granted petitioner’s motion for summary decision and dismissed respondent’s appeal. No exceptions were filed.

Upon *de novo* review of the record, and after consideration of the ALJ’s initial decision, I hereby accept and adopt the findings of fact, conclusions and recommendation contained in the ALJ’s decision.

ORDER

Therefore, it is hereby ordered that the Department’s denial of respondent’s application for renewal of its public works contractor registration be affirmed and that respondent’s appeal be dismissed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum

DECISION RENDERED BY THE
COMMISSIONER, DEPARTMENT OF
LABOR AND WORKFORCE DEVELOPMENT



Robert Asaro-Angelo, Commissioner
Department of Labor and Workforce Development

Inquiries and Correspondence:

David Fish, Executive Director
Legal and Regulatory Services
Department of Labor and Workforce Development
PO Box 110 – 13th Floor
Trenton, New Jersey 08625-0110

