

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROAD AND HIGHWAY BUILDERS,  
L.L.C.,  
Appellant,  
vs.  
OFFICE OF THE LABOR  
COMMISSIONER, AN AGENCY OF  
THE STATE OF NEVADA; THE STATE  
OF NEVADA DEPARTMENT OF  
TRANSPORTATION; AND PETER  
STEVENSON,  
Respondents.

No. 69161

**FILED**

SEP 27 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order denying a petition for judicial review in a prevailing wage matter. First Judicial District Court, Carson City; James Todd Russell, Judge.

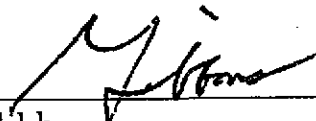
Respondent Peter Stevenson filed a claim for wages against appellant Road and Highway Builders, LLC (RHB). Respondent Nevada Department of Transportation, as the body that awarded the contract to RHB, investigated the claim and concluded that RHB had failed to pay Stevenson the prevailing wage for work he performed within the ironwork classification. RHB objected to the determination. Thereafter, respondent Office of the Labor Commissioner summarily affirmed the determination. The district court subsequently denied RHB's petition for judicial review and this appeal followed.


NRS 233B.125 requires that "a final decision" in a contested case "must include findings of fact and conclusions of law, separately stated." Here, the Office of the Labor Commissioner's order affirming the Department of Transportation's determination was the final order in the administrative proceeding. See NAC 338.112(2)(b) (providing that an


order of the Labor Commissioner affirming an awarding body's determination "is deemed to be the final order of the Labor Commissioner on the matter"). But the Office of the Labor Commissioner did not make any findings of fact or conclusions of law with regard to RHB's objections to the Department of Transportation's determination.

Accordingly, we reverse the district court's order denying the petition for judicial review and direct the district court to remand this matter to the Office of the Labor Commissioner so that the statutorily required findings of fact and conclusions of law can be properly made.<sup>1</sup> See NRS 233B.135(3)(c) (providing that a court may remand an agency decision if the petitioner's substantial rights have been prejudiced because the agency's decision is "[m]ade upon unlawful procedure"); *Elizondo v. Hood Mach., Inc.*, 129 Nev. \_\_\_, \_\_\_, 312 P.3d 479, 482-83 (2013) (concluding that an appeals officer's order that failed to include findings of fact and conclusions of law pursuant to NRS 233B.125 precluded adequate review on appeal).

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

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<sup>1</sup>Because we conclude that reversal is warranted on this basis, we do not reach RHB's argument that the district court should have remanded to the Office of the Labor Commissioner to expand the record under NRS 233B.131(2). On remand, the Office of the Labor Commissioner should consider whether the Department of Transportation has provided all the information required by NAC 338.110(6).

cc: Hon. James Todd Russell, District Judge  
Carl M. Hebert  
Attorney General/Carson City  
Peter Stevenson  
Attorney General/Transportation Division/Carson City  
Carson City Clerk