

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :
 :
KATI MANCUSO D/B/A KATI'S PLACE, :
 :
 :
Petitioner, :
 :
 :
To Review Under Section 101 of the Labor Law: :
An Order to Comply with Article 19 of the Labor Law, : RESOLUTION OF DECISION
and an Order Under Articles 6 and 19 of the Labor :
Law, both dated October 14, 2011, :
 :
 :
- against - :
 :
THE COMMISSIONER OF LABOR, :
 :
 :
Respondent. :
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DOCKET NO. PR 12-088

RESOLUTION OF DECISION

APPEARANCES

Kati Mancuso, Rochester, petitioner pro se.

Pico Ben-Amotz, General Counsel, NYS Department of Labor, Albany (*Benjamin T. Garry* of counsel), for respondent.

WHEREAS:

1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and the Industrial Board of Appeals' Rules of Procedure and Practice (Board Rules) (12 NYCRR) Part 66 on March 9, 2012; and
2. By resolution of decision dated December 14, 2012, the Board dismissed the petition due to petitioner's failure to comply with the Board's directive to file an amended petition; and
3. On February 27, 2017, petitioner moved the Board to reconsider its December 14, 2012 decision, asserting that she had not received the Board's directive to file an amended petition because the owners of the property where she conducted business had unlawfully locked her out of the premises and were discarding her mail; and
4. Respondent took no position on the matter; and
5. Having found that petitioner stated a valid reason that justified her failure to follow the Board's directive, by interim resolution of decision dated July 26, 2017,¹ the Board granted petitioner's

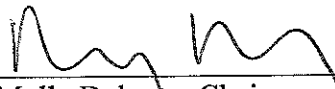
¹ The July 26, 2017 interim resolution of decision was issued under Board Docket No. PR 17-021. The interim decision

motion for reconsideration, revoked its decision of December 14, 2012, and directed petitioner to file an amended petition within 30 days of service of the interim decision; and

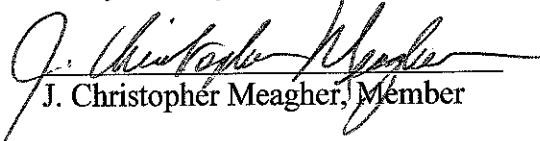
- 6. On August 28, 2017, petitioner filed an amended petition; and
- 7. Respondent Commissioner of Labor filed an answer to the petition on November 27, 2017; and
- 8. Upon notice by the Board issued to the parties dated March 20, 2018, a hearing was scheduled for June 12, 2018; and
- 9. Petitioner failed to attend or otherwise appear at the June 12, 2018, hearing; and
- 10. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.30, the burden of proof is on petitioner to prove that the orders under review are not valid or reasonable; and
- 11. Pursuant to Board Rules (12 NYCRR) § 65.24, “the failure of a party to appear at a hearing shall be deemed to be a waiver of all rights except the rights to be served with a copy of the decision of the Board and to request Board review pursuant to Rule 65.41,” unless application for reinstatement is made within five days after the scheduled hearing; and
- 12. Petitioner has not made any application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The petition for review be, and the same hereby is, dismissed in accordance with the Board’s Rules.

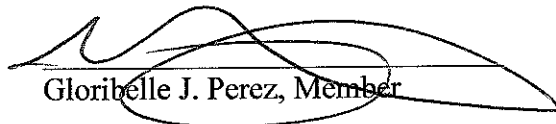


Molly Doherty, Chairperson



J. Christopher Meagher, Member

Michael A. Arcuri, Member



Gloribelle J. Perez, Member

Dated and signed by the Members of the Industrial Board of Appeals in New York, New York, on August 8, 2018.

included a determination that closed the matter under Docket No. PR 17-021 and would proceed under the matter’s original Docket No. of PR 12-088.

motion for reconsideration, revoked its decision of December 14, 2012, and directed petitioner to file an amended petition within 30 days of service of the interim decision; and

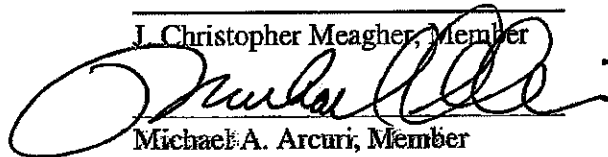
6. ~~On August 28, 2017, petitioner filed an amended petition; and~~
7. ~~Respondent Commissioner of Labor filed an answer to the petition on November 27, 2017; and~~
8. Upon notice by the Board issued to the parties dated March 20, 2018, a hearing was scheduled for June 12, 2018; and
9. ~~Petitioner failed to attend or otherwise appear at the June 12, 2018, hearing; and~~
10. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.30, the burden of proof is on petitioner to prove that the orders under review are not valid or reasonable; and
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Molly Doherty, Chairperson

J. Christopher Meagher, Member



Michael A. Arcuri, Member

Dated and signed by a Member
of the Industrial Board of Appeals
in Utica, New York,
on August 8, 2018.

Gloribelle J. Perez, Member

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