

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 HELMER TORO AND THE FIRST TORO FAMILY :
 LIMITED PARTNERSHIP (T/A H & H BAGELS), :
 :
 Petitioners, :
 :
 To Review Under Section 101 of the Labor Law: Two :
 Orders to Comply with Article 6, and an Order Under :
 Article 19 of the Labor Law, all dated September 29, :
 2014, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 14-280
RESOLUTION OF DECISION

APPEARANCES

Helmer Toro, for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Paul Piccigallo 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 Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66) on November 10, 2014; and
2. Respondent Commissioner of Labor (Commissioner) filed an answer to the petition on January 13, 2015; and
3. Upon notice by the Board to the parties issued on February 5, 2015, a telephone pre-hearing conference was scheduled for March 2, 2015 and a hearing for March 31, 2015. The notice was sent to petitioner at the address of record that petitioner supplied to the Board in his petition; and

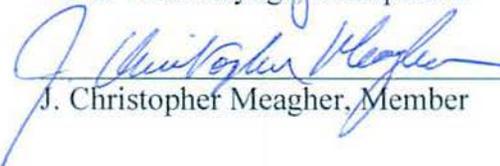
4. Petitioner participated in the conference on March 2, 2015 and acknowledged that he had received the notice of hearing; and
5. Petitioner failed to attend or otherwise appear at the hearing; and
6. Pursuant to Labor Law § 103 and Board Rule 65.30, the burden of proof is on petitioner to prove that the orders under review are not valid or reasonable; and
7. Pursuant to Board Rule 65.24, "the failure of a party to appear at a hearing shall be deemed 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 Section 65.41," unless application for reinstatement is made within five days after the scheduled hearing; and
8. Petitioner has not made any application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

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

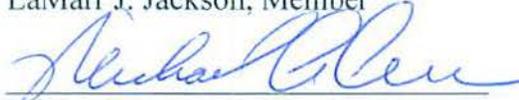


Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member

LaMarr J. Jackson, Member



Michael A. Arcuri, Member



Frances P. Abriola, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
April 29, 2015.

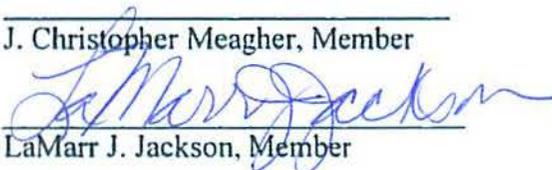
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Michael A. Arcuri, Member

Frances P. Abriola, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Buffalo, New York, on
April 29, 2015.