

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :  
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 JIMMY ILLESCAS A/K/A JAMIE ILLESCAS AND :  
 THE NEW TROPICAL DELI 2 INC. (T/A :  
 TROPICAL RESTAURANT), :  
 :  
 :  
 Petitioners, : DOCKET NO. PR 15-137  
 :  
 :  
 To Review Under Section 101 of the Labor Law: : RESOLUTION OF DECISION  
 An Order to Comply with Article 19 of the Labor :  
 Law, an Order to Comply with Article 6 of the Labor :  
 Law, and an Order Under Articles 5 and 19 of the :  
 Labor Law, each dated March 5, 2015, :  
 :  
 :  
 - against - :  
 :  
 :  
 THE COMMISSIONER OF LABOR, :  
 :  
 :  
 Respondent. :  
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**APPEARANCES**

Carter & Associate Attorneys, PLLC (Damond J. Carter of counsel), for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Fredy Kaplan 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 May 1, 2015; and
2. Respondent Commissioner of Labor filed an answer to the petition on September 28, 2015; and
3. Upon notice to the parties, dated May 9, 2016, a hearing was scheduled for June 17, 2016; and
4. Counsel for petitioners appeared at hearing and advised the Board petitioners would not attend; and
5. Petitioners provided no evidence at hearing; and

6. Pursuant to Labor Law § 103 and Board Rule 65.30, the burden of proof is on petitioners to prove that the orders under review are not valid or reasonable; and
7. Because petitioners produced no evidence they failed to meet their burden of proof in this matter; and
8. Petitioners having failed to meet their burden of proof, the orders are affirmed.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

1. The orders are affirmed.
2. The petition for review be, and the same hereby is, dismissed in accordance with the Board's Rules.



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Vilda Vera Mayuga, Chairperson

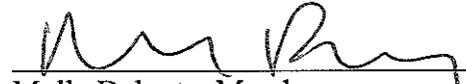


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J. Christopher Meagher, Member

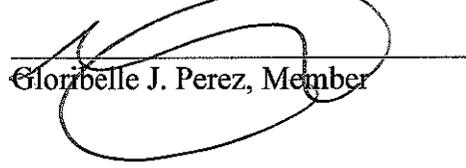
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Michael A. Arcuri, Member



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Molly Doherty, Member



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Gloribelle J. Perez, Member

Dated and signed by the Members  
of the Industrial Board of Appeals  
in New York, New York on  
September 14, 2016.

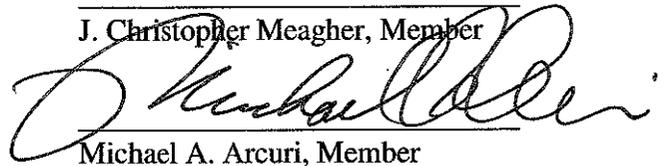
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Dated and signed by a Member  
of the Industrial Board of Appeals  
in Syracuse, New York on  
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