

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.

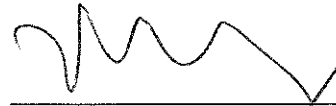
WHEREAS:

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.

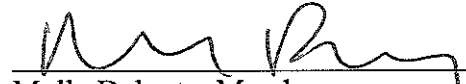


Vilda Vera Mayuga, Chairperson

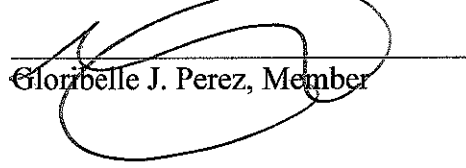


J. Christopher Meagher, Member

Michael A. Arcuri, Member



Molly Doherty, Member



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.

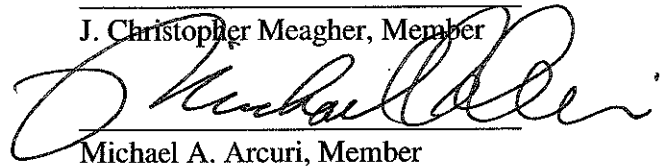
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Dated and signed by a Member
of the Industrial Board of Appeals
in Syracuse, New York on
September 14, 2016.