

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

	X	
In the Matter of the Petition of:	:	
	:	
MOUHAMMAD S. MALIK A/K/A MOHAMMAD S.	:	
MALIK AND TRENTON HALAL MEAT INC. (T/A	:	
NEW AL SALIM HALAL MEAT),	:	
	:	DOCKET NO. PR 17-102
	:	
Petitioners,	:	<u>RESOLUTION OF DECISION</u>
	:	
To Review Under Section 101 of the Labor Law:	:	
An Order to Comply with Article 19 and an Order Under	:	
Article 19 of the Labor Law, both dated April 19, 2017,	:	
	:	
- against -	:	
	:	
THE COMMISSIONER OF LABOR,	:	
	:	
Respondent.	:	
	X	

APPEARANCES

The Law Offices of Muhammad Shabbir, New York (*Muhammad Shabbir* of counsel), for petitioners.

Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (*Steven J. Pepe* of counsel), for respondent.

WHEREAS:

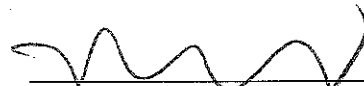
1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR) Part 66 on June 16, 2017; and
2. Respondent Commissioner of Labor filed an answer to the petition on August 2, 2017; and
3. Upon notice to the parties, dated February 16, 2018, the hearing was scheduled for March 23, 2018; and
4. Petitioners did not attend the hearing but appeared by way of their counsel, who made an application to remand the matter back to the Department of Labor on due process grounds, alleging that petitioners did not have the opportunity to be heard; and
5. The hearing officer having denied petitioners' application on the record based on the Board's previous holding that due process is satisfied by the opportunity to contest the orders at a

hearing before the Board (*Matter of Muhammad Irfan, et al.*, PR 16-096 [March 7, 2018] at 4; *Matter of Clifton J. Morello [T/A Iron Horse Beverage LLC]*, PR 14-283 [Sept. 14, 2016] at 6; *Matter of Angelo A. Gambino and Francesco A. Gambino [T/A Gambino Meat Market, Inc.]*, PR 10-150 [July 25, 2013] at 6; and


6. The Board having herein affirmed the hearing officer's denial of petitioners' application; and
7. Petitioners' counsel having rested his case after making his opening statement and without presenting any evidence; and
8. Respondent made a motion to dismiss on grounds that petitioners failed to meet their burden of proof; and
9. Pursuant to Labor Law § 103 and Board Rule (12 NYCRR) § 65.30, the burden of proof is on petitioners to prove that the orders under review are not valid or reasonable; and
10. Petitioners, having failed to present any evidence, failed to meet their burden of proof, and the proceeding must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Respondent's motion to dismiss is granted as petitioners failed to meet their burden of proof pursuant to Labor Law § 103 and Board Rule (12 NYCRR) § 65.30.
2. The petition for review be, and the same hereby is, dismissed in accordance with the Board's Rules.

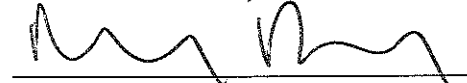


Vilda Vera Mayuga, Chairperson



J. Christopher Meagher, Member

Michael A. Arcuri, Member



Molly Doherty, Member

Absent

Gloribelle J. Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York, on
June 6, 2018.

hearing before the Board (*Matter of Muhammad Irfan, et al.*, PR 16-096 [March 7, 2018] at 4; *Matter of Clifton J. Morello [T/A Iron Horse Beverage LLC]*, PR 14-283 [Sept. 14, 2016] at 6; *Matter of Angelo A. Gambino and Francesco A. Gambino [T/A Gambino Meat Market, Inc.]*, PR 10-150 [July 25, 2013] at 6; and

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of the Industrial Board of Appeals
in Utica, New York, on
June 6, 2018.

Molly Doherty, Member

Absent

Gloribelle J. Perez, Member