

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

RICKANDA SMITH AND REIKI CONSTRUCTION
CORP.,

Petitioners,

DOCKET NO. PR 18-073

To Review Under Section 101 of the Labor Law:
An Order to Comply with Articles 6 and 19 of the
Labor Law dated September 11, 2018,

RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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APPEARANCES


Pico P. 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 Industrial Board of Appeals' Rules of Procedure and Practice (Board Rules) (12 NYCRR) Part 66 on November 13, 2018; and
2. Respondent Commissioner of Labor filed an answer to the petition on December 17, 2018; and
3. Upon notice to the parties, dated December 26, 2018, a hearing was scheduled for March 26, 2019; and
4. Petitioner failed to appear at the March 26, 2019 hearing; and
5. 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
6. 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 section 65.41," unless application for reinstatement is made within five days after the scheduled hearing; and
7. 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 May 29, 2019.