

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petitions of:

AJ J. BLACK A/K/A AJ BLACK AND IL TESORO
RISTORANTE AND BAR, LLC (T/A IL TESORO
RESTAURANTE),

Petitioners,

To Review Under Section 101 of the Labor Law: An
Order to Comply with Article 19 and an Order Under
Articles 5 and 19 of the Labor Law, both dated June
15, 2015, and; An Order to Comply with Article 19,
Two Orders to Comply with Article 6, and an Order
Under Article 19 of the Labor Law, all dated June 30,
2015,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NOS.

PR 15-236 and PR 15-256

RESOLUTION OF DECISION

APPEARANCES

AJ J Black, petitioner pro se, and for Il Tesoro Ristorante and Bar, LLC.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Taylor A. Waites of counsel), for respondent.

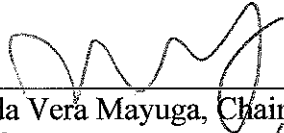
WHEREAS:

1. The above proceedings were commenced by the filing of petitions 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) in Docket No. PR 15-236 on August 10, 2015 and in Docket No. PR 15-256 on September 18, 2015; and
2. The petition in PR 15-236 sought review of an order to comply with Article 19 and an order under Articles 5 and 19 of the Labor Law, both dated June 15, 2015; the petition in PR 15-256 sought review of an order to comply with Article 19, two orders to comply with Article 6, and an order under Article 19 of the Labor Law, all dated June 30, 2015; and
3. Respondent Commissioner of Labor filed an amended answer in PR 15-236 on November 30, 2015 and an answer in PR 15-256 on October 29, 2015; and

4. The Board held a pre-hearing conference with the attorneys for the parties on May 2, 2016, consolidated both cases for hearing, and by notice issued to the attorneys on May 13, 2016 scheduled the cases for hearing before the Board on October 19, 2016; and
5. On August 22, 2016, the Board received a notice of withdrawal as counsel from petitioners' attorney who had filed the petitions in both cases, with an affidavit of service showing that a copy was served on petitioners at their last known address in the state of Florida; and
6. By letter dated September 13, 2016, the Board forwarded to petitioners at their Florida address a copy of the relevant papers filed with the Board in both cases, together with a copy of the notice of hearing for October 19, 2016, and advised petitioners that the hearing would go forward on that date; and
7. Petitioners failed to attend or otherwise appear at the hearing; and
8. 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
9. Pursuant to Board Rule 65.24, "the failure of a party to appear 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 Rule 65.41, unless application for reinstatement is made within five days after the scheduled hearing; and
10. Petitioners have not made any application for reinstatement.

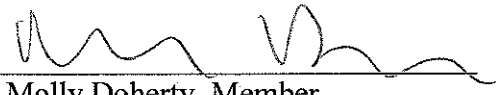
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

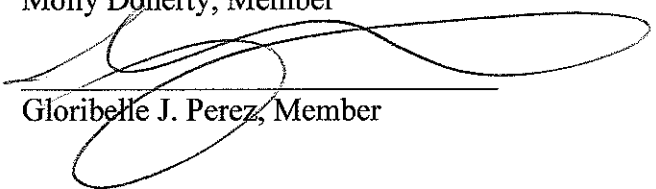
This proceeding be, and the same hereby is, dismissed in accordance with the Board's Rules.


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
December 14, 2016.