

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

BERNARDA T. TORIBIO,

Petitioner,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 6 of the Labor Law;
and Order to Comply with Article 19 of the Labor
Law; and an Order Under Articles 5, 6 and 19 of the
Labor Law, all dated December 28, 2016,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 17-001

RESOLUTION OF DECISION

APPEARANCES

Bernarda T. Toribio, petitioner pro se.

Pico Ben-Amotz, General Counsel, NYS Department of Labor, New York (*Benjamin Garry* of counsel), for respondent.

WHEREAS:

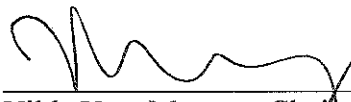
1. The above proceeding was commenced by the filing of a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Board Rules) (12 NYCRR) Part 66 on January 6, 2017; and
2. Respondent Commissioner of Labor filed an answer to the petition on February 8, 2017; and
3. Upon notice by the Board to the parties dated August 14, 2017, a hearing was scheduled for October 19, 2017; and
4. Petitioner failed to attend or otherwise appear at the October 19, 2017 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

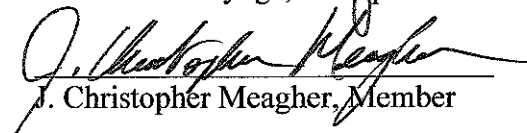
decision of the Board and to request Board review pursuant to Rule 65.41,” unless application for reinstatement is made within five days after the scheduled hearing; and

7. Petitioner has not made any application for reinstatement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

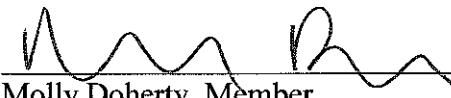
The petition for review be, and the same hereby is, dismissed in accordance with the Board’s Rules.




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 13, 2017.

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

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.

Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member



Michael A. Arcuri, Member

Dated and signed by a Member
of the Industrial Board of Appeals
in Syracuse, New York,
on December 13, 2017.

Molly Doherty, Member

Gloribelle J. Perez, Member