

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

BRANDON C. DELMARLE AND BCD HOME
IMPROVEMENTS, LLC,

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Article 6 and an Order
Under Article 19 of the Labor Law, both dated March
20, 2015,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 15-156

RESOLUTION OF DECISION

APPEARANCES

Brandon C. Delmarle, petitioner pro se, and for BCD Home Improvements, LLC.

Pico Ben-Amotz, Esq., General Counsel, NYS Department of Labor (Benjamin T. Garry of counsel), for respondent.

WHEREAS:

1. Pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66), the above proceeding was commenced on May 18, 2015 by the filing of a petition for review of two orders issued by respondent Commissioner of Labor (Commissioner) against petitioners on March 20, 2015; and
2. The Commissioner filed an answer to the petition on July 28, 2015; and
3. Upon notice by the Board to the parties, dated October 19, 2015, a hearing was scheduled for December 15, 2015; and
4. Petitioners failed to attend or otherwise appear at the hearing; and
5. 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
6. 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

7. Petitioners have 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


LaMarr J. Jackson, Member

Michael A. Arcuri, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York on
March 2, 2016.

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