

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

HASSAN OSMAN AND ADEL FATHELBAB AND :
BAHAA ELANSARY AND MOATAZ BELLA :
MAHMOUD AND Z-ONE DINER & LOUNGE INC. :
(T/A Z ONE), :

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 August :
26, 2015, :

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 15-338

RESOLUTION OF DECISION

APPEARANCES

Robert J. Fileccia, for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (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 Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (Rules) (12 NYCRR Part 66) on October 23, 2015; and
2. Respondent Commissioner of Labor filed an answer on December 14, 2015; and
3. On July 15, 2016, the Board held a hearing on this matter where the parties appeared and petitioners requested an adjournment to seek enforcement of a subpoena compelling the appearance of claimant Raul Flores at the hearing; and
4. The Board granted the adjournment request and, by notice dated July, 21, 2016, notified the parties of the new hearing date of October 6, 2016; and
5. Petitioners failed to attend or otherwise appear at the rescheduled hearing; and

6. 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
7. 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
8. 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

Absent
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
January 25, 2017.