

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:	:
	:
PETER SCHMIDT AND RICHARD SCHMIDT	:
A/K/A RICHIE SCHMIDT (T/A CRAZY COW	:
DAIRY),	:
	:
Petitioners,	:
	:
To Review Under Section 101 of the Labor Law:	:
An Order to Comply with Article 19 of the Labor Law	:
and an Order Under Articles 6 and 19 of the Labor	:
Law, both dated September 10, 2015,	:
	:
- against -	:
	:
THE COMMISSIONER OF LABOR,	:
	:
Respondent.	:
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DOCKET NO. PR 15-360

RESOLUTION OF DECISION

APPEARANCES

Peter Schmidt, petitioner pro se, and for Richard Schmidt.

Pico Ben-Amotz, Esq., General Counsel, NYS Department of Labor (Roya Sadiqi 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 November 5, 2015; and
2. Respondent Commissioner of Labor filed an answer to the petition on December 17, 2015; and
3. Upon notice to the parties, dated December 23, 2015, a prehearing conference was scheduled for February 1, 2016, and a hearing was scheduled for March 8, 2016; and
4. Petitioners failed to participate in the prehearing conference on February 1, 2016; and
5. Because petitioners failed to participate in the prehearing conference, we sent a letter to petitioners, dated February 2, 2016, reminding petitioners of the scheduled hearing and that failure to appear would result in a default decision by the Board; and

6. Petitioners failed to attend or otherwise appear at the hearing; and
7. 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
8. Pursuant to Board Rule 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
9. Petitioners have not made an 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 by the Members
of the Industrial Board of Appeals
at Albany, New York
on April 13, 2016.