STATE OF NEW YORK INDUSTRIAL BOARD OF APPEALS		
In the Matter of the Petition of:	-x :	
JAGTAR SINGH,	:	
Petitioner,	: :	DOCKET NO. PR 14-245
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 14, 2014,		RESOLUTION OF DECISION DENYING RECONSIDERATION
- against -	: :	
THE COMMISSIONER OF LABOR,	: ;	
Respondent.	:	
	-X	

## **APPEARANCES**

Ricotta & Marks, P.C., Long Island City (Thomas Ricotta of counsel), for petitioner.

Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (Larissa C. Bates of counsel), for respondent.

## WHEREAS:

By Resolution of Decision dated May 3, 2017, we modified the wage order issued against petitioner, and affirmed the penalty order. Our decision was served on the parties on May 9, 2017, and on July 19, 2017, petitioner filed an application for reconsideration pursuant to Board Rule (12 NYCRR) § 65.41. Respondent Commissioner of Labor opposes the application because petitioner failed to provide any basis in law or fact for us to reconsider our decision. We agree with respondent and, as discussed below, deny petitioner's application.

Board Rule (12 NYCRR) § 65.41 (a) provides that an:

"[a]pplication for reconsideration after a determination made by the Board shall be in writing, and shall state specifically the grounds upon which the application is based. When any determination, resolution, requirement or order of the Board is sought to be reversed, modified, changed, rescinded or terminated on account of facts or circumstance arising subsequent to a hearing or on account of consequences resulting from compliance with such determination, resolution, requirement or order, which are claimed to justify a reconsideration of the proceeding, the matters relied upon by the applicant shall be set forth fully."

Petitioner has provided no justification for reconsideration of our decision pursuant to Board Rule (12 NYCRR) § 65.41 (a) (see e.g. Matter of Beqiraj, et. al., PR 11-393 [April 13, 2016]). Instead, he attempts to relitigate arguments already made at the hearing as he challenges his employer status and questions claimant's credibility; makes new arguments as he challenges the liquidated damages in the order to comply with Article 19 of the Labor Law (as modified); and contests the Board's determination of the weight of the evidence presented at the hearing.

Pursuant to Labor Law § 101 (2), petitioner waived his right to challenge the liquidated damages assessed in the order to comply with Article 19 of the Labor Law as he failed to contest it in the petition. Furthermore, pursuant to Board Rule (12 NYCRR) § 65.41 (a), petitioner failed to set forth any facts or circumstances arising after the hearing that warrant the Board revoke its decision of May 3, 2017. Petitioner's contention that compliance with the decision results in him "facing financial ruin" does not justify a reconsideration of our decision.

## NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

Petitioner's application is denied.

Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member

Michael A. Arcuri, Member

Molly Doherty, Member

Gloribelle L Perez, Member

Dated and signed by the Members of the Industrial Board of Appeals in New York, New York, on March 7, 2018.

claimed to justify a reconsideration of the proceeding, the matters relied upon by the applicant shall be set forth fully."

Petitioner has provided no justification for reconsideration of our decision pursuant to Board Rule (12 NYCRR) § 65.41 (a) (see e.g. Matter of Beqiraj, et. al., PR 11-393 [April 13, 2016]). Instead, he attempts to relitigate arguments already made at the hearing as he challenges his employer status and questions claimant's credibility; makes new arguments as he challenges the liquidated damages in the order to comply with Article 19 of the Labor Law (as modified); and contests the Board's determination of the weight of the evidence presented at the hearing.

Pursuant to Labor Law § 101 (2), petitioner waived his right to challenge the liquidated damages assessed in the order to comply with Article 19 of the Labor Law as he failed to contest it in the petition. Furthermore, pursuant to Board Rule (12 NYCRR) § 65.41 (a), petitioner failed to set forth any facts or circumstances arising after the hearing that warrant the Board revoke its decision of May 3, 2017. Petitioner's contention that compliance with the decision results in him "facing financial ruin" does not justify a reconsideration of our decision.

## NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

Petitioner's application is denied.

	Vilda Vera Mayuga, Chairperson
	J. Christopher Meagher, Member  Michael A. Arcuri, Member
Dated and signed by a Member of the Industrial Board of Appeals	Molly Doherty, Member
in Utica, New York, on March 7, 2018.	Gloribelle J. Perez, Member