

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

JAIME CESAREO ILLESCAS AKA JIMMY  
ILLESCAS GUZMAN AND 1 THE NEW  
TROPICAL DELI 2 INC. T/A NEW TROPICAL  
DELI,

Petitioners,

To Review Under Section 101 of the Labor Law:  
An Order to Comply with Articles 5, 6 and 19 of the  
Labor Law dated July 16, 2019,

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 19-132

RESOLUTION OF DECISION

**APPEARANCES**

*Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (Kevin E. Jones 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 Industrial Board of Appeals (hereinafter “Board”) Rules of Procedure and Practice (hereinafter “Board Rules”) (12 NYCRR) Part 66 on September 16, 2019; and
2. Respondent Commissioner of Labor filed an answer to the petition on October 24, 2019; and
3. Upon notice by the Board to the parties dated November 8, 2019, a hearing was scheduled for February 19, 2020; and
4. Petitioners failed to attend or otherwise appear at the hearing; and
5. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.30, the burden of proof is on the petitioners to prove that the order under review is not valid or reasonable; and
6. Pursuant to Board Rules (12 NYCRR) § 65.24, “the failure of a party to appear at a hearing

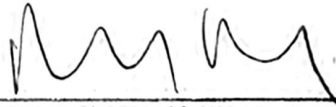
shall be deemed to be a waiver of all rights except the rights to be served with a copy of the decision of the Board and to request Board review pursuant to section 65.41," unless application for reinstatement is made within five days after the scheduled hearing; and


7. The 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.

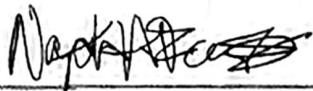
Dated and signed by the Members  
of the Industrial Board of Appeals  
on June 24, 2020.

  
Molly Doherty, Chairperson  
New York, New York

  
Michael A. Arcuri, Member  
Utica, New York

  
Gloribelle J. Perez, Member  
New York, New York

  
Patricia Kakalec, Member  
Brooklyn, New York

  
Najah Farley, Member  
Brooklyn, New York