

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

JHONG UNK KIM A/K/A KIM JHONG UNK AND  
RICHMOND IHOP LLC T/A RICHMOND IHOP,

Petitioners,

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

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 19-092

RESOLUTION OF DECISION

**APPEARANCES**

*Peckar & Abramson*, River Edge, New Jersey, (*Michael J. P. Schewe* of counsel), for petitioners.

*Pico P. Ben-Amotz*, General Counsel, NYS Department of Labor, Albany (*Steven J. Pepe* of counsel), for respondent.

**WHEREAS:**

This proceeding was commenced when petitioners filed a petition on July 11, 2019 in an envelope post-marked July 10, 2019. The Board served the petition on respondent Commissioner of Labor on July 18, 2019. Respondent moved on July 25, 2019 to dismiss the petition as untimely. Petitioners did not respond to the motion.

Labor Law § 101 (1) provides that:

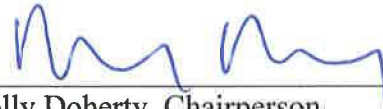
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

The orders to be reviewed were issued on May 6, 2019, and therefore, any petition for review filed with the Board with a post-mark after July 5, 2019, is untimely (Labor Law § 101 (1); Board Rules of Procedure and Practice [12 NYCRR] §§ 65.3 [a] and 65.5 [d]). As the petition in

this proceeding was post-marked after July 5, 2019, and petitioners have offered no reason to excuse their late filing, the petition was untimely and must be dismissed.

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

The Commissioner of Labor's motion to dismiss the petition for review is granted, and the petition for review be, and the same hereby is, dismissed.

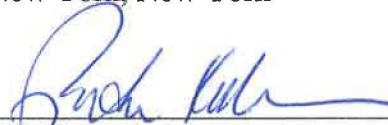


Molly Doherty, Chairperson  
New York, New York

Michael A. Arcuri, Member  
Utica, New York



Gloribelle J. Perez, Member  
New York, New York



Patricia Kakalec, Member  
New York, New York



Najah Farley, Member  
New York, New York

Dated and signed by the Members  
of the Industrial Board of Appeals  
on September 11, 2019.

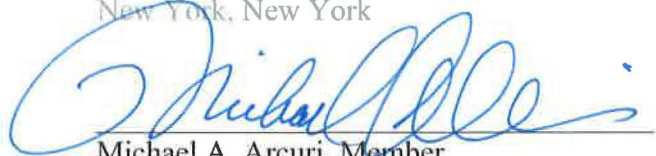
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