STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS
--x
In the Matter of the Petition of: :
                                                                   :
BENJAMIN HULETT,   :
                                                                   :
                              Petitioner,   :
                                                                   :   DOCKET NO. PES 19-014
To Review Under Section 101 of the Labor Law: :
A determination pursuant Section 27-a (10) of the   :   RESOLUTION OF DECISION
Labor Law, dated August 28, 2019,   :
                                                                   :
                          - against -   :
                                                                   :
THE COMMISSIONER OF LABOR,   :
                                                                   :
                              Respondent.   :
--x

APPEARANCES

Jill Archambault, *Acting General Counsel, NYS Department of Labor*, Albany (*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 Industrial Board of Appeals' Rules of Procedure and Practice (hereinafter "Board Rules") (12 NYCRR) Part 66 on October 3, 2019, and an amended petition on November 12, 2019; and

2. Respondent filed an answer to the petition and amended petition on January 9, 2020; and

3. Upon notice to the parties, dated July 1, 2021, the hearing was scheduled for August 24, 2021; and

4. Petitioner failed to attend or otherwise appear at the August 24, 2021, hearing; and

5. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.30, the burden of proof is on petitioner to prove that the determination 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. Petitioner has 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 September 29, 2021.

Molly Doherty, Chairperson

Michael A. Arcuri, Member

Najah Farley, Member

Patricia Kakalec, Member

Sandra Abeles, Member