

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

-----X
In the Matter of the Petition of:

JOHN CULKIN V. NYC TRANSIT AUTHORITY,

Petitioner,

To Review Under Section 101 of the Labor Law:
A determination pursuant Section 27-a (10) of the
Labor Law, dated July 1, 2020,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
-----X

DOCKET NO. PES 20-007

RESOLUTION OF DECISION

APPEARANCES

Jill Archambault, 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 66¹ on August 20, 2020. An amended petition was filed on August 31, 2020; and
2. Respondent filed an answer to the petition and amended petition on October 1, 2020; and
3. Upon notice to the parties, dated February 1, 2022, the hearing was scheduled for April 1, 2022; and
4. Petitioner failed to attend or otherwise appear at the April 1, 2022 hearing; and
5. Pursuant to Labor Law § 103 and Board Rules (12 NYCRR) § 65.39 (former Board Rules [12 NYCRR] § 65.30), the burden of proof is on petitioners to prove that the determination under review is not valid or reasonable; and

¹ The Board Rules were amended on March 30, 2022. The current corresponding section of the Board Rules is Part 65 but at the time of filing under the former Board Rules, the relevant section was Part 66.

6. A party waives all rights for failing to appear at a hearing pursuant to Board Rules (12 NYCRR) § 65.51 (former Board Rules [12 NYCRR] § 65.24) except the right to ask the Board to reconsider its decision under Board Rules § 65.60 (former Board Rules [12 NYCRR] § 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 Rules.

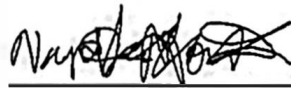
Dated and signed by the Members
of the Industrial Board of Appeals
on May 18, 2022.



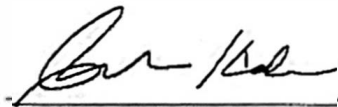
Molly Doherty, Chairperson



Michael A. Arcuri, Member



Najah Farley, Member



Patricia Kakalec, Member

ABSENT

Sandra Abeles, Member