WHEREAS:

By Resolution of Decision (hereinafter “decision”) dated November 10, 2021, we affirmed the minimum wage order issued against petitioner, including the interest, liquidated damages and penalty order but we revoked the 100% civil penalty assessed on the unpaid wages. Our decision was served on the parties on November 15, 2021. On February 24, 2022, petitioner filed a sample petition form seeking review of the decision that we issued on November 10, 2021. We deemed this correspondence a motion for reconsideration pursuant to former Board Rule (12 NYCRR) § 65.41 [as of March 30, 2022, the Board Rules were amended such that the corresponding rule is now found at 12 NYCRR § 65.60] of our November 10, 2021 decision. Respondent Commissioner of Labor opposes the application asserting that the 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) provided 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 When any determination, resolution, requirement or order of the Board is sought to be reversed, modified, changed, rescinded or terminated on account of facts or circumstance arising subsequent to a hearing or on account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 did not provide a justification for reconsideration of our decision pursuant to Board Rule (12 NYCRR) § 65.41 (a) (see e.g. Matter of Jagtar Singh, Docket No. PR 14-245, at p. 2 [Mar. 7, 2018] citing Matter of Llesh J. Beqiraj and Mentor Beqiraj (T/A University Pizza & Restaurant) also (T/A University Pizza, Ltd.), Docket No. PR 11-393, at pp. 1-2 [Apr. 13, 2016]). Instead, petitioner attempts to relitigate an argument made at the hearing.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

Petitioner's application is denied.

Dated and signed by the Members of the Industrial Board of Appeals on March 30, 2022.

Molly Doherty, Chairperson

Michael A. Arcuri, Member

Najah Farley, Member

Patricia Kakalec, Member

Sandra Abeles, Member