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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Andre BRITTON, Appellant,
v.
AEROTEK et al., Respondents.
WORKERS' COMPENSATION BOARD, Respondent.

April 8, 2021

Facts: Claimant filed a claim alleging racial discrimination and sexual harassment resulting in psychological injuries. Claim was disallowed based on lack of any diagnoses causally related to any workplace incident. Claimant's counsel filed RB-89 appealing decision filed March 8, 2019. Board denied review based on use of incorrect RB-89 form. Claimant appealed.

Holding: *Affirmed.*

Discussion: The appeal filed on behalf of the claimant was accompanied by RB-89 in use prior to December 1, 2016. In accordance with Subject No, 046-878 revised RB-89 must be used after December 1, 2016. Court found that Board could use its discretion in denying application for review.