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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Rolando CANELA, Claimant,
v.
SKY CHEFS, INC., et al., Appellants,
WORKERS' COMPENSATION BOARD, Respondent
April 8, 2021

Facts: Following a compensable injury to the back, claimant was awarded benefits at a temporary partial disability rate. Employer and carrier raised the issue of labor market attachment. Following a hearing, a WCLJ ruled that claimant had voluntarily withdrawn from the labor market based on the claimant's refusal of a light duty job offer and the production of an inadequate independent work search. On appeal, the Board reversed the WCLJ and found that the claimant was entitled to benefits.

Holding: *Affirmed.*

Discussion: Court held that issue of voluntary withdrawal from labor market was a question of fact which will be upheld if supported by substantial evidence. In this case, Court found that the evidence of a light duty job offer was not specific enough to determine the position that was being offered and therefore claimant did not reject an actual offer of suitable work. Court also found that there was substantial evidence to support the Board's decision that evidence of an independent work search was sufficient.