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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Nancy KRISTL, Respondent,
v.
ROME CITY SCHOOL DISTRICT, Appellant.

WORKERS' COMPENSATION BOARD

April 1, 2021

Facts: Employer appealed a finding of a 32.5% loss of wages earnings capacity even though the WCLJ, as affirmed by the Board, determined that claimant voluntarily removed herself from the labor market at the time of her retirement and was not entitled to indemnity benefits until she reattached herself to the labor market.

Holding: *Affirmed.*

Discussion: After citing standards for determining loss of wage earnings capacity the Court ruled that there was substantial evidence that supported the Board's decision. The Board declined to address the claimant's potential entitlement to indemnity benefits upon establishing a reattachment to the labor market pending that claim being set forth and a decision being rendered by the Board.