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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of PAUL RYBA, Claimant,
v.
RYAN E. RUSSELL, Doing Business as RYAN'S HOME IMPROVMENTS, Appellant,
Et al.,
Respondents,
WORKERS' COMPENSATION BOARD, Respondent.

April 27, 2023

Facts: A WCLJ established the claim for various injuries and found the proper employer was uninsured on the date of accident. The WCLJ found Section 56 liability against Ryan's Home Improvements. RHI's application for Board review was denied for failure to complete Item 13 on the RB-89 form. Item 13 deals with identifying transcripts, documents, reports, exhibits, and other evidence being raised for review. If minutes of a hearing are not transcribed, so indicate. On the Application for Board Review form, the employer listed the hearing and the decision. The Board took issue that it did not specify whether the hearing minutes were transcribed or make reference to the C49.2 compliance search.

Holding: *Affirmed.*

Discussion: In a footnote, it is pointed out that the Board's new policy, that a mistake, omission, defect and/or other irregularity on the RB-89 cover sheet, shall not be grounds for denial went into effect on December 21, 2021. This application pre-dates the amendment of Section 23-a (1) and accordingly the Court affirmed the Board Panel's denial of the application due to the defect.