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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of PAUL GASPARD, Appellant,
v.
QUEENS PARTY HALL INC., Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

December 17, 2020

Facts: This is a controverted claim that was established but then disallowed by the Board Panel after an appeal from the carrier. A subsequent request for reconsideration and/or Full Board review made by the claimant was denied. The claimant, a maintenance worker, fell down the stairs. The carrier controverted the claim raising issues of notice as well as no causally related accident. In reviewing the Law Judge's decision, the Board Panel held that the claimant had failed to show the accident occurred in the course of employment and denied the claim. Facts cited include that the claimant did not treat until over a month after the alleged incident and the initial medical makes no reference to the fact that the injury was work related.

Holding: Affirmed.

Discussion: The question of whether an accident has occurred is a factual issue to be resolved by the Board. Any decision that rests on substantial evidence will not be disturbed.