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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of JOHN McCORMICK, Appellant,
v.
TERRYVILLE FIRE DISTRICT, Respondents

WORKERS' COMPENSATION BOARD, Respondent.

December 17, 2020

Facts: This concerns an established claim for injuries to the neck and back where the carrier raised Section 114-a for the claimant's failure to disclose a prior neck injury. After litigation, the Law Judge agreed that a 114-a violation had occurred and mandatory and discretionary penalties, including a ban from receipt of future indemnity benefits, were imposed. The claimant appealed and the Board Panel affirmed. The claimant's Application for Reconsideration and/ or Full Board Review appealed only from that decision.

Holding: Affirmed.

Discussion: The only issue before the Court is the denial of the Application for Reconsideration and/ or Full Board Review. As the Board's denial was not arbitrary or capricious and the claimant did not present any new evidence, the Board did not abuse its discretion.