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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of BRIAN C. REITH, Appellant,
v.
CITY OF ALBANY, Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

December 23, 2021

Facts: This is a claim for post-traumatic stress disorder as the result of the situations the claimant encountered on call as a firefighter. The case was established, and the employer appealed. Upon review, the Board Panel disallowed the claim holding that an amendment to Workers' Compensation Law Section 10(3) did not apply. This provision requires a claimant to show that the stress that caused his injury would be greater than that experienced by similarly situated workers in a normal work environment. The amendment exempts first responders, such as the claimant, from having to bear this burden and directs the Board not to automatically disallow these claims given the nature of the work environment but to treat such claims on a factual case by case basis. The claimant then filed an Application for Reconsideration/ Full Board Review as well as an appeal to the Appellate Division. The Board then issue an amended decision indicating that the claimant could proceed under Workers' Compensation Law Section 10(3) but still disallowed the claim finding a lack of casual relationship between the claimant's job and his PTSD. The claimant is now appealing the amended decision having made a motion to withdraw his earlier appeal to the Appellate Division.

Holding: *Reversed.*

Discussion: The facts presented by the claimant included examples such witnessing a suicide, a triple homicide of children and the claimant himself twisting his ankle slipping on brain matter. The claimant's PTSD symptoms included uncontrollable crying, weight loss and outbursts of anger. His treatment records indicated that his symptoms presented an

impairment to functioning at work. Considering this and more the Court determined that the Board was incorrect, and the decision was not supported by substantial evidence. The claimant had certainly satisfied his burden by showing the casual relationship between the claimant's job and his PTSD.

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