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Supreme Court, Appellate Division, Third Department, New York

MYRAIM FLEURISSAINT, Appellant

v

LENOX HILL HOSPITAL, Respondent

and

WORKERS' COMPENSATION BOARD

Decided February 9, 2017

Facts: The case was established for injuries to the head, post-concussion syndrome, and a neuropsychiatric injury. After litigation the claimant was found to have a 37.5% permanent partial disability. The claimant appealed seeking to increase same to 50% and the carrier requested the decision should be affirmed. The board found the claimant had no further disability and rescinded awards.

Holding: Affirmed

Discussion: The Court confirmed the board may, on its own, reverse the judge even when the issue before it was degree of disability as opposed to further disability if any. The Court referenced the Board's "broad jurisdiction" to modify or rescind a judge's decision. The Court credited the Board's reference to the carrier's consultant who noted the claimant exaggerated her symptoms and found no evidence of a disability.