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Supreme Court, Appellate Division, Third Department, New York

Matter of JEFFREY NEWBILL, Appellant

v

TOWN OF HEMPSTEAD, Respondent

and

WORKERS' COMPENSATION BOARD

Decided February 9, 2017

Facts: The claimant lost time from work and was paid full wages from the employer. The claimant was awarded a schedule loss of use award to the right foot and the Board permitted reimbursement for wages paid against the award. The claimant appealed the decision having argued that the reimbursement includes periods of time that awards were not entered due to a lack of medical evidence.

Holding: Affirmed

Discussion: The Court noted that the fact medical evidence was missing during a period is not relevant to the employer's entitlement to reimbursement. The claimant did not dispute that he was paid wages during periods of disability prior to the direction of the schedule award.