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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

Michael GRANCIA, Respondent,

v.

Town of Hamburg, Appellants

WORKERS' COMPENSATION BOARD, Respondent.

February 10, 2020

Facts: The carrier filed a request for Board Panel Review. Box 15 of the RB-89 which asks, "specify the objection or exception interposed at the hearing and when the objection or exception was interposed...." In response, the carrier indicated "upon information and belief an exception / objection was noted prior to the conclusion of the hearing." The Board found this response was incomplete as it did not include the date of the objection or exception. This appeal ensued.

Holding: Reversed and Remitted.

Discussion: The carrier's response complied with the requirement in 12 NYCRR 300.13(b)(2)(ii) required the party filing the appeal to note when the objection was entered. Therefore, the carrier's response was appropriate. However, the Court also noted that this application for Board Panel Review predated the issuance of Board Subject Number 046-1119 and other supplemental information which clarified the information that was required.

Accordingly, while the carrier's response was sufficient in this case, it stands to reason that similar responses filed after the issuance of Board Subject Number 046-1119 and the other associated documents would not be.