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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

Edward JONES, Appellant,

v.

SERVISAIR, LLC, Respondent

WORKERS' COMPENSATION BOARD, Respondent.

February 27, 2020

Facts: On February 19, 2014 the claimant had a work-related injury to his right shoulder. The following day the employer filed a C-2F noting a sprain. In March of 2014 a notice of case assembly was issued by the Board reminding the claimant of the importance of filing a C-3. After a provider filed a C-4.2 in May 2016, the Board indexed the case. A C-3 was not filed until 2017. The Law Judge found that Section 28 of the WCL did not bar the claim, but on appeal the Board reversed and disallowed it because it was not filed within 2 years of the date of accident. This appeal ensues.

Holding: Affirmed.

Discussion: The Court rejected the claimant's argument that the filing of the C-2F in conjunction with the notice of case assembly constituted a filing of the claim. The C-2F included the claimant's name, location of the injury, date of the injury, and that the claimant had a sprain. Given the relatively minor nature of the injury and the lack of much information, it was reasonable for the Board to conclude that the filing of the C-2F form does not support the reasonable inference that a claim for workers' compensation benefits would be made. Neither the carrier's nor the Board's assignment of a case number negate this.