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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of John GALDON, Claimant,
v.
ROBERT BASIL INC. et al., Appelants,

WORKERS' COMPENSATION BOARD, Respondent.

February 9, 2023

Facts: This claimant had filed a claim for Workers' Compensation Benefits from an alleged accident to his back on February 29, 2020. The claim was controverted, and the carrier had alleged the claimant failed to provide timely notice. The claim was established and the carrier appealed, arguing that under Workers' Compensation Law Section 18 the claim would be barred for untimely notice unless excused because notice could not be given, the employer had knowledge of the accident, or there was no prejudice to the employer. The Board had found the claimant's testimony credible that while there was no timely written notice, the claimant had provided timely verbal notice to the assistant manager.

Holding: *Affirmed.*

Discussion: Although the employer witness testified to not receiving notice when the claimant alleged, the Board had credited the claimant's testimony. The Court noted that determination of the sufficiency of the claimant's oral notice is within the exclusive province of the Board and substantial evidence supported their determination. On the establishment of the claim, the Court noted that the Board has broad authority to make credibility determinations, and as the decision was supported by substantial evidence it would not be disturbed.