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Supreme Court, Appellate Division, Third Department, New York

Matter of WILFREDO GUEVARA, Claimant

v.

GREENVELVET TREE, INC., Respondent

and

STATE INSURANCE FUND, Appellant

and

WORKERS' COMPENSATION BOARD, Respondent

February 16, 2023

Facts: Approximately a month before the claimant's accident of August 2019, the State Insurance Fund (SIF) notified Green Velvet Landscaping Inc., that it was canceling its coverage effective July 31, 2019, for nonpayment of premiums. The notice was sent by certified mail, return receipt requested to the designated individual for Green Velvet Landscaping. The notice confirmed that it also applied to Greenvelvet Tree. While Greenvelvet Tree was not on the initial application for insurance it was added as an additional insured at some point in the past. Partial payments were tendered both before and after the effective date of cancellation. The Board ultimately determined that the SIF failed to cancel the policy with respect to Greenvelvet Tree. The SIF appealed that decision.

Holding: *Affirmed.*

Decision: The Court set forth the requirements for a proper cancellation under the law, having stated that strict compliance with the statute is required. While the president of Green Velvet Landscaping and Greenvelvet Tree was the same person, he was only listed as the designated individual to receive notice for Green Velvet Landscaping. In addition there is no dispute that the two companies were two separate corporate entities. However only one notice was sent out by the SIF, to Green Velvet Landscaping. The fact that the entities shared the same address

and that the same person was president of both is insufficient to satisfy the strict requirements of the law, and that the SIF failed to separately serve Greenvelvet Tree.

*Stewart, Greenblatt, Manning & Báez*