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Supreme Court, Appellate Division, Third Department, New York

In the Matter of BRENDA HILL, Appellant
v.
SHOP RITE SUPERMARKETS, INC., Respondents
WORKERS' COMPENSATION BOARD, Respondent

June 30, 2016

Facts: The claimant slipped and fell on grease and injured her back. The case was controverted by the employer and carrier and following a hearing the claim was disallowed. The Judge found that the employer had rebutted the presumption under Workers' Compensation Law Section 21. The Judge found the claimant was not credible and had failed to establish by way of competent medical evidence causal relationship between the medical condition and her employment. The Board affirmed the Judge and the claimant appealed.

Holding: Affirmed.

Discussion: The Court held that the issue of whether a compensable accident occurred presents a question of fact for resolution by the Board and its decision will be upheld when supported by substantial evidence. The Court outlined facts that support the Board Decision. The claimant provided no information regarding when she first sought and received treatment for this alleged injury. The claimant's testimony reflected uncertainty regarding the name of the manager to whom she reported this alleged accident. The claimant also denied having received prior treatment for her back and yet the claimant's treating physician testified he previously treated her for the back before this alleged accident. The Court noted the Board is the sole arbiter of witness credibility and the Board is entitled to reject the claimant's testimony and proof and draw reasonable inferences from conflicting evidence to conclude that there was no work-related accident. This finding was supported by substantial evidence. The Court noted that Section 21 cannot be utilized to demonstrate that an accident occurred in the first place although it

does afford a presumption that an un-witnessed or unexplained workplace accident arose out of and in the course of employment.

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