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Supreme Court, Appellate Division, Third Department, New York

In the Matter of KATHLEEN HUFFER, Appellant

v.

NESCONSET FIRE DISTRICT, et al., Respondents.

WORKERS' COMPENSATION BOARD, Respondent.

October 6, 2016

Facts: The claimant was a volunteer firefighter and on 2/26/14, he responded to two calls during the day and attended a drill that evening at the firehouse. The claimant returned home, went to bed and passed away in his sleep early the next morning of hypertensive and atherosclerotic heart disease. The WCLJ denied the claim and this was affirmed by the Board Panel.

Holding: Affirmed.

Discussion: A claim for volunteer firefighter death benefits will be compensable if the claimant introduced evidence which establishes that the volunteer firefighter suffered disease or malfunction of the heart which caused disablement or death and that such disease or malfunction resulted from the duties and activities in which the volunteer firefighter was engaged. Given the lack of sufficient evidence regarding the duties and activities in which decedent was engaged, the requirements for the applicability of the statutory presumption under Section 61 was not met.