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SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT, NEW YORK

Matter of Anjanaben Kinkhabwala, Claimant

v.

ADP Totalsource FL XIX Inc., Appellants

Decided December 28, 2017

**Facts:** The claimant alleged an injury to her left leg as a result of twisting same at work on April 3, 2015 while stacking boxes. The employer maintained the claimant failed to provide written notice to it within 30 days as required by Section 18. The employer witness testified that she first learned of the injury at a visit to the claimant's home on May 11<sup>th</sup>, 2015. The Board credited the testimony of the claimant that she reported the accident the day of the injury to her supervisor and took into consideration the fact that there was a language barrier as well as the lack of conflicting testimony from the supervisor.

**Holding:** Affirmed

**Discussion:** The Court deferred to the Board on issues of credibility and noted the Board did not abuse its discretion in excusing the claimant's failure to provide written notice based upon the employer's actual knowledge. The Court also considered the medical evidence and while one report said the injury occurred at home most of the reports stated it occurred at work. The Court again deferred to the Board issues of credibility when supported by substantial evidence.