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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

Christina JAMES, Respondent,

v.

HOME COMFORT ASSISTANCE, INC., Appellant,

WORKERS' COMPENSATION BOARD, Respondent.

January 30, 2020

Facts: This claim for injuries to the left ankle was litigated on issues of employer-employee relationship, and ultimately established by the Workers' Compensation Law Judge. The employer appealed that finding, however, the Board denied review finding that the RB-89 had not been filled out completely. Specifically, on question 12, the employer wrote "See attached Basis for Appeal pages 1-5."

Holding: Affirmed.

Discussion: 12 NYCRR 300.13 provides that an application to the Board for review shall be in the format prescribed by the chair, and that the application must be filled out completely. As the Board had issued a Subject Memorandum stating that an application is not considered to be filled out completely when a party responds to sections merely by referring to the attached legal brief or other documentation without further explanation. As the application was not filled out completely, the Board acted within its discretion to deny review.