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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

Isaura PARRALES, Appellant,

v.

NEW YORK POPULAR INC., Respondent,

WORKERS' COMPENSATION BOARD, Respondent.

January 30, 2020

Facts: This claim had been established for injuries to both knees and was subsequently amended to include a consequential back injury. The claimant was classified with a 30% loss of wage earning capacity and capable of sedentary work but was not entitled to wage loss benefits due to a lack of attachment to the labor market. Claimant's counsel appealed to the Board, but the appeal was denied as the Board found that RB-89 was not filled out completely. Specifically, for question 15 on the RB-89 claimant's counsel wrote "Exception noted at the 4/12/18 hearing," but did not specify the exception being referenced.

Holding: Affirmed.

Discussion: Under 12 NYCRR 300.13, the application for administrative review shall specify the objection or exception that interposed to the ruling and when the objection or exception was interposed. The Court found that while the claimant had specified the hearing where the exception was noted, they did not specify what exception was being referenced. The Court noted that there was more than one exception made at the hearing on 4/12/18. Because the application was not filled out completely, the Board acted within its discretion to deny review.