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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of SONYA GORBEA, Appellant,
v.
VERIZON NEW YORK INC., Respondents,
WORKERS' COMPENSATION BOARD, Respondent.

January 13, 2022

Facts: The claimant filed a discrimination complaint against the employer pursuant to Workers' Compensation Law Section 120 alleging that the employer had breached their employment contract, erroneously denied her request for short-term disability and discriminated against her based upon her disabilities. The Board found that the claimant had been terminated for a valid business reason and the claimant had not demonstrated a nexus between her pursuit of workers' compensation benefits and her termination. The claimant's Application for Board Review was denied and she is now appealing to the Appellate Division *pro se* regarding the denial of her Application for Reconsideration/Full Board Review.

Holding: *Affirmed.*

Discussion: The Application for Reconsideration/Full Board Review was discretionary, not mandatory. The Board has the right to deny such appeals so long as it is not acting in an arbitrary or capricious manner. The claimant did not present new evidence or show that the Board failed to consider relevant evidence before it. Accordingly, there was no abuse of discretion.