

STEWART, GREENBLATT, MANNING & BAEZ

ATTORNEYS AT LAW

6800 JERICHO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

DONALD R. STEWART (RET.)
MADGE E. GREENBLATT
ROBERT W. MANNING
RICARDO A. BAEZ
DAVID J. GOLDSMITH
PETER MICHAEL DeCURTIS
LAURETTA L. CONNORS
JOHN K. HAMBERGER

LISA LEVINE
ANDREA L. De SALVIO
KRISTY L. BEHR
DAVID S. FOODEN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
JILLIAN A. SMITH

KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)

RAYMOND J. SULLIVAN
MONICA M. O'BRIEN

OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

In the Matter of KEVIN JOHNSON, Appellant,

v.

T.I. CANNON MANAGEMENT, et. Al., Respondents.

WORKERS' COMPENSATION BOARD, Respondent.

December 8, 2016

Facts: The claimant alleged an accident at work sometime in February, 2012. He sought immediate medical treatment but did not file a claim until 14 months later. The employer and carrier objected to the claim. The Workers' Compensation Board found that the claimant had not provided timely notice of the accident to the employer and disallowed the claim. The claimant appealed.

Holding: *Affirmed*, without costs.

Discussion: The Court noted that Section 18 of the WCL requires that a claimant seeking workers' compensation benefits must give the employer written notice of the claim within 30 days of sustaining a compensable injury. While also noting that a claimant's failure to give timely written notice may be excused in situations where notice could not be given, the employer or its agent had knowledge of the accident or the employer did not suffer any prejudice the Court went on to state that the Board is not required to excuse a claimant's failure to give timely notice even where one of those grounds is proven. Although the claimant testified that he orally notified his supervisor about his accident, the record was devoid of any documentation to substantiate claimant's testimony. Given the 14-month delay between claimant's accident and the filing of his claim for workers' compensation benefits, the Court refused to disturb the Board's determination.