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Supreme Court, Appellate Division, Third Department, New York

Matter of LYUBOV KAPLAN, appellant,  
v  
NYC TRANSIT AUTHORITY, respondent,  
and  
WORKERS' COMPENSATION BOARD, Respondent.

Decided June 7, 2018

Facts: Claimant collapsed in a locker room at work and later died. The ER records attributed claimant's death to sudden cardiac arrest secondary to cardiovascular disease due to old age. The WCLJ established the case as a compensable death claim, finding that the employer failed to rebut the presumption of WCL §21. The Board reversed, concluding that even if the presumption applies, it was rebutted and the claimant had not submitted a medical opinion to support a finding that the decedent's death was causally-related to his employment. Claimant appealed.

Holding: *Reversed and Remitted for further proceedings.*

Discussion: The Board, apparently on its own accord, relied heavily on medical records not contained within the case file. In its decision, the Board referred to a number of records contained in a separate Board file for a 2014 claim involving a slip and fall. The employer did not request the Board rely on these 2014 records, nor did it adhere to the procedure for introducing additional evidence. The claimant was prejudiced because she was not on notice until she received the Board decision that the Board would rely on documents from another case file.