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Supreme Court, Appellate Division, Third Department, New York

Matter of TYLER LOVEGROVE, Appellant

v

REGIONAL FOOD BANK OF NORTHEASTERN NY, Respondent

and

WORKERS' COMPENSATION BOARD

Decided March 23, 2017

Facts: The claimant was struck in the back by a pallet that was being carried on a forklift. The claimant then raised an additional injury to the right shoulder blade which was disallowed. The Board Panel Affirmed and the claimant now appeals.

Holding: *Reversed and remitted to Board.*

Discussion: The Court noted that while the Board has the discretion to selectively accept or reject the testimony of medical experts, it cannot totally reject uncontroverted testimony on the question of causation. Here the claimant's doctor unequivocally testified to a medical degree of certainty that the shoulder injury was causally related while the carrier's consultant testified that a shoulder injury was plausible based upon the mechanism of injury.