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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of RICHARD FERRARI, Appellant,
v.
DARCON CONSTRUCTION INC et. al., Respondents
and
WORKERS' COMPENSATION BOARD, Respondent.

March 21, 2019

Facts: Claimant, a construction worker, filed a claim alleging he had tripped and fallen on broken concrete. The carrier controverted the case and after litigation the Law Judge held that the claim should be disallowed finding the claimant's testimony to be inconsistent and the other lay testimony to be more credible. The Board Panel Affirmed. The claimant now appeals.

Holding: Affirmed.

Discussion: The Board is given deference in making credibility determinations, so long as the opinion rests on substantial evidence, as it did here, it will not be disturbed.