

**STEWART, GREENBLATT, MANNING & BAEZ**

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  
LUKE R. TARANTINO  
THOMAS A. LUMPKIN  
JONATHAN SO

ATTORNEYS AT LAW  
6800 JERICHO TURNPIKE  
SUITE 100W  
SYOSSET, NY 11791  
516-433-6677  
FAX 516-433-4342

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

RAYMOND J. SULLIVAN  
MONICA M. O'BRIEN  
MARY ELLEN O'CONNOR  
JAMES MURPHY  
OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

In the Matter of MICHAEL WASHINGTON, Appellant  
v.  
HUMAN TECHNOLOGIES, Respondent  
and  
WORKERS' COMPENSATION BOARD, Respondent

Decided March 14, 2019

Facts: On May 19<sup>th</sup>, 2016, the claimant was fired for falsifying a doctor's note regarding an earlier absence. In August 2016, he filed an unsigned and undated C-3 claiming a May 8<sup>t</sup>, 2016 injury carrying a buffer machine from the 2<sup>nd</sup> floor to the 3<sup>rd</sup> floor. He also claimed that he provided oral and written notice to his employer on May 9<sup>th</sup>. He filed a second C-3 in September 2016 changing the history of the accident insofar as carrying the machine from the second floor to the first floor. (It appears the building only had 2 floors). He filed a 3<sup>rd</sup> C-3 later on in September 2016 and now claimed to only provided oral notice of the injury. After litigation, the judge disallowed the claim, finding the history as provided by the claimant as being "incredible." The Board affirmed and the Full Board denied a request for review. The claimant appealed both decisions.

Holding: Appeal from Board decision affirming disallowance of claim is deemed *abandoned*.  
Appeal from Full Board decision denying review is *affirmed*.

Discussion: The claimant failed to perfect his initial appeal from the denial of the case in a timely fashion and was deemed abandoned.  
Regarding the review of the request for Full Board review, the Court noted their inquiry is limited to whether the Board abused its discretion or acted in an arbitrary or capricious manner in denying the request. The requesting party needs to demonstrate that there is newly discovered evidence, a material change in

condition or that the Board improperly failed to consider the issues raised in the initial application. The claimant failed to show any of these conditions existed and affirmed the denial of the request for Full Board review.

*Stewart, Greenblatt, Manning & Báez*