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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Gregory RANERI, Respondent,

v.

XEROX CORPORATION, Appellant

WORKERS' COMPENSATION BOARD, Respondent.

March 11, 2021

Facts: The carrier raised a violation of Section 114-a. On two days the claimant had borrowed a truck from a friend, for whom he previously worked, to plow driveways, despite indicating he had not worked. The Law Judge found that the claimant violated Section 114-a and imposed the mandatory penalty as well as a discretionary penalty of permanent forfeiture of future indemnity benefits. On appeal, the Board Panel affirmed the finding that the claimant had violated Section 114-a, but rescinded the discretionary penalty, finding it was not warranted. The carrier appealed.

Holding: *Affirmed.*

Discussion: Absent an abuse of discretion, the Court will not disturb the Board's determination regarding a penalty for a violation of Section 114-a. There was no abuse of discretion here, so the decision was affirmed.