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DONALD R. STEWART (1949-2021)

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Supreme Court, Appellate Division, Third Department, New York

Matter of CHARLES WILLIAMS, Appellant

v.

NEW YORK CITY TRANSIT AUTHORITY, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

Decided March 9, 2023

Facts: The claimant, a train conductor, filed a claim for posttraumatic stress disorder following an event of March 15, 2021, when a person was discovered to have fallen between train cars and died. The Board issued a Notice of Case Assembly on March 22, 2021. The self insured employer submitted a FROI-00 the same day listing the claim as medical only and that the agreement to compensation is listed as an "L-With Liability." On March 30, 2021, a SROI – Employer Paid form was filed reflecting payment of indemnity benefits without liability, and then on May 5, 2021, a SROI-SJ was filed confirming payments made to the claimant, without liability, were suspended. On May 7, 2021, a SROI denial form was filed controverting the case. The claimant alleged the employer was precluded from controverting the case, having alleged the notice of controversy was untimely. The judge found prima facie evidence for posttraumatic stress disorder and adjourned the case for the employer to produce a consultant's report. The Claimant appealed having alleged that the notice of controversy of May 7, 2021 was untimely having not been filed within the 25 day time period of Section 25(2) (b). The claimant also argued the the FROI-00 accepting the case with liability was a binding acceptance of the case. The Board determined because the case was never indexed the employer did not file an untimely notice of controversy. A request for full board review was denied.

Holding: *Reversed and remitted.*

Decision: Since the Board did not address the issue of the filing of the initial FROI-00 as a binding acceptance, the matter is remitted to the Board to address the issues raised by the claimant on appeal and provide a detailed explanation for its determination.

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