

STEWART, GREENBLATT, MANNING & BAEZ

ATTORNEYS AT LAW

6800 JERICHO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

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
DAVID S. FOODEN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
JILLIAN A. SMITH
JONATHAN SO

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

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

Supreme Court, Appellate Division, Third Department, New York

Matter of DONALD McKINNEY, Appellant

v

US ROOFING CORP, Respondent

and

WORKERS' COMPENSATION BOARD

Decided May 4, 2017

Facts: Claimant was found to have a partial disability and directed to produce evidence of a work search and attachment to the labor market. After failing to do so, the carrier requested a suspension of benefits. Subsequently, the claimant was again directed to provide proof of attachment and the claimant objected to this request, and the objection was sustained by the WCLJ and awards were continued. The Board modified the WCLJ's decision by suspending benefits pending further development of the record. Claimant appeals.

Holding: *Affirmed*

Discussion: A claimant has an obligation to look for work within his restrictions. Given the claimant's failure to provide such evidence, as well as his failure to comply with the Board's previous directions to do so, the Court concluded that the Board's decision to suspend benefits pending development of the record was justified.