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Supreme Court, Appellate Division, Third Department, New York

Matter of MICHAEL RYDSTROM, Claimant-Appellant

v

PRECISION CARPENTRY OF WESTCHESTER, INC, Respondents,

and

WORKERS' COMPENSATION BOARD, Respondent

Decided May 25, 2017

- Facts: The claimant alleged injuries occurring on July 8, 2014 when a steel cable fell on him at a construction site. The incident was not reported to his supervisor and he did not complete an accident report. The claimant continued to work until he was fired 3 days later for unrelated reasons. The claimant first sought medical care on October 31, 2014, and filed a C-3 on November 3, 2014. The Workers' Compensation Board disallowed the claim, finding that it was not timely filed.
- Holding: *Affirmed.*
- Discussion: Workers' Compensation Law Section 18 requires that a claimant seeking workers' compensation benefits must provide written notice of an injury within 30 days after the accident causing such injury. The failure to give timely written notice generally precludes a claim unless the Board excuses the failure on the ground that notice could not be given, the employer or its agent had knowledge of the accident or the employer did not suffer any prejudice. Here, the claimant failed to establish that the employer had actual knowledge of the injury, and the claimant offered no plausible explanation for why he did not report the alleged accident. The record also supports the finding that the delay aggravated the claimant's injuries as the medical records stated that his symptoms have been getting progressively worse, and that the delay frustrated the employers' efforts to interview the individuals who allegedly dropped the cable.