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State of New York Supreme Court, Appellate Division, Third Judicial Department, New York

In the Matter of DAVID BONET, Appellant

v.

NEW YORK CITY TRANSIT AUTHORITY, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

May 26, 2022

Facts: Claimant filed a claim for occupational disease after taking a regular service retirement and not losing time from work or seeking medical treatment for his condition prior to his retirement. A Workers' Compensation Law Judge found that claimant did not submit sufficient evidence to establish a causal connection between his work activities and the alleged occupational disease. The Workers' Compensation Board affirmed the Law Judge's decision. The claimant appealed the disallowance of the claim.

Holding: *Affirmed.*

Discussion: After reviewing the basis for a compensable occupational disease claim, the Court found that the claimant's treating physician's knowledge of the claimant's work history and job requirements was far less detailed than alleged by the claimant and that the treating physician in his deposition testimony did not express adequate knowledge of the claimant's specific job duties except in a most generalized sense or the amount of time that the claimant spent on these duties. The doctor testified that the claimant had

developed neck and shoulder pain due to repetitive stress and forceful use of the upper extremities without being aware of the specific motions required or the tools utilized by the claimant on a daily basis. The Court noted that, “In light of the less than compelling medical evidence tended by the claimant” the Board’s decision was supported by substantial evidence.

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