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State of New York Court of Appeals

In the Matter of the Claim of

STEVE PERSAUD, Appellant,

v.

ASH & PETERKIN CENTRAL LOCK COMPANY, INC. et al., Respondents,

WORKERS' COMPENSATION BOARD, Respondent.

May 30, 2024

Facts: In 2000, Claimants injury to the back was established and he received benefits for a temporary disability until November 2012. Carrier suspended payments due to lack of updated medical evidence of continued disability. Hearings were held on the matter between 2014 and 2017, during which Claimant was ordered to produce updated medical evidence. On March 9, 2017, the Workers' Compensation Law Judge ("WCLJ") concluded all issues resolved on prior findings and awards and marked the case "no further action."

5 years later, Claimant filed a request for action alleging he was classified with a permanent partial disability in 2007, and was owed benefits awarded in 2012. He further alleged fraud against the Carrier. WCLJ concluded that Carrier did not commit fraud, nor was the Claimant owed any further awards. The Board affirmed the WCLJ's decision and found that Claimant was never classified with a permanent disability. Claimant applied for reconsideration and the Board denied. Claimant appealed.

Holding: *Affirmed.*

Discussion: The Court determined that the merits of the Board's decision when considering Claimants appeal for reconsideration are not at issue before the Court. Therefore, the Court is limited to whether the Board's denial of Claimants application for reconsideration was arbitrary. The Court determined it was not. The Claimant failed to produce updated medical evidence despite the Board requesting the same over several years. Therefore,

there was no evidence for the Board or the Court to consider. The Board's denial was not an abuse of discretion under these circumstances.

*Stewart, Greenblatt, Manning & Báez*