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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

MARK HIRSCHBECK, Appellant,

v.

OFFICE OF THE COMMISSIONER OF MAJOR LEAGUE BASEBALL, Respondents

WORKERS' COMPENSATION BOARD, Respondent.

March 16, 2020

Facts: The claimant's injuries in this case also led to the filing of a third-party action which would go on to settle. After the Law Judge held that the carrier could take credit for the net recovery going forward and had no further obligation to reimburse the claimant for litigation costs, the claimant appealed. The substance of the appeal was never addressed as this is a case where an appeal was denied for failure to comply with 12 NYCRR 300.13 (b).

Holding: Affirmed.

Discussion: Denial of an appeal for failure to comply with 12 NYCRR 300.13 does not constitute an abuse of discretion. The Board has the power to adopt reasonable procedural rules. Here the reason for denial was failure to complete question 13 of the RB-89 form. This question requests that the appealing party identify the document identification numbers of transcripts, documents, reports, etc. that are relevant to the issues being raised for review. The response that all documents in the file are pertinent is too broad.