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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of

DIANE PERRY, Claimant,

v.

ALL AMERICAN SCHOOL BUS CORP., Appellants

WORKERS' COMPENSATION BOARD, Respondent.

March 16, 2020

Facts: Claimant, a bus attendant, was waiting on the sidewalk for her assigned bus to pick her up. A motor vehicle accident occurred at the intersection and the claimant was injured. The carrier controverted the case but ultimately the claim was established. The carrier appealed the establishment and the Board denied the carrier's application for failure to comply with 12 NYCRR 300.13 (b) (1). The carrier's request for reconsideration or full Board Review was also denied.

Holding: Affirmed.

Discussion: The Board has the power to adopt reasonable procedural rules. Here the reason for denial was failure to complete question 15 of the RB-89 form. This question requires the appealing party to specify the objection or exception to the ruling as well as state when the exception was made. Here the carrier simply indicated "At hearing." This does not identify the reason for the objection or even the time it was made since there was more than one hearing. Therefore, the Board did not abuse its discretion in denying the application.