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Supreme Court, Appellate Division, Third Department, New York

BRIDJE RANGASAMMY, Appellant,
v.

PHILIPS HEALTHCARE et al., Respondents,
and
WORKERS' COMPENSATION BOARD, Respondent

May 30, 2019

Facts: Claimant filed a claim for injuries sustained in an alleged work-related motor vehicle accident. Following lay and medical testimony the WCLJ established the claim as a compensable accident. On appeal, the Board Panel reversed, finding that the claimant failed to demonstrate that an accident arising out of and in the course of employment actually occurred on the day in question. The claimant appealed to the Appellate Division.

Holding: *Affirmed*

Discussion: Whether a compensable accident has occurred is a question of fact to be resolved by the Board and its determination will not be disturbed when supported by substantial evidence. Although the claimant relied on the presumptions in Section 21, the statutory presumption cannot be used to establish that an accident occurred in the first instance, nor does it wholly relieve a claimant of demonstrating that the accident occurred in the course of, and arose out of, his or her employment. In this case there was a police aided report filed but none of the other alleged participants to the accident were present when the police arrived. The claimant changed his account of events several times and the police could not find any evidence that an accident occurred. The claimant also submitted conflicting records concerning where he had worked on the date of the alleged accident and

when he had made certain sales calls. The Court found that there was substantial evidence to support the Board's decision.

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