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Supreme Court, Appellate Division, Third Department, New York

In the Matter of MARTIN SEDLOCK, Appellant
v.

EMPLOY BRIDGE, Respondent
and
WORKERS' COMPENSATION BOARD, Respondent

May 16, 2019

Facts: The claimant worked for a few weeks in September 2016 at a food production plant. He alleged he slipped and fell, though he did not seek treatment or tell anyone at the time. The claimant went to the emergency room on October 18, 2016 and underwent back surgery soon afterward. The claimant testified he could not recall the exact accident date in September 2016 but detailed the fall and experiencing various symptoms approximately 10 days after the accident. He developed a foot drop, which compelled the emergency room visit in October 2016. The claimant's physician testified that he reported a work-related injury a few weeks prior and that a foot drop tends to develop over time following a back injury. The claimant emailed his former supervisor on October 24, 2016 regarding the injury. The judge established the claim to various injury sites and found the claimant provided timely notice. The Board Panel affirmed.

Holding: Affirmed.

Discussion: The Third Department noted that the Board's ruling regarding a question of causal relationship will not be disturbed when the ruling is supported by substantial evidence. The Board was free to credit the testimony of the claimant and his physician. Regarding timely notice, the Third Department noted that failure to file timely notice may be excused where a claimant notifies an employer as soon as the severity of the injury becomes apparent. Here, the claimant notified the

employer on October 24, 2016 and the Board credited the claimant's testimony. Any delay was excused given the prompt notice provided once the claimant discerned his injuries were the result of the work-related accident. The Third Department afforded deference to the Board's credibility determination regarding the claimant and the treating physician.

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