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Supreme Court, Appellate Division, Third Department, New York

In the Matter of JOVANNI GARCIA, Claimant,  
v.  
STEWART CANTOR, Appellant  
and  
UNINSURED EMPLOYER'S FUND, Respondent  
WORKERS' COMPENSATION BOARD, Respondent

November 18, 2021

Facts: Appeal from a decision of the Workers' Compensation Board filed June 10, 2020, which ruled that the employer failed to comply with 12 NYCRR 300.13 (b)(1) and denied review of a decision by the Workers' Compensation Law Judge.

The claimant was employed as a laborer and alleged that he was bitten by a snake while picking up leaves for the employer in August of 2018. The claim was controverted and ultimately the Workers' Compensation Law Judge established the claim for a work-related injury to the claimant's left hand and left wrist. Medical treatment was authorized. Additionally, the Workers' Compensation Law Judge made a determination that the employer was uninsured on the date of accident in violation of Section 50 of the Workers' Compensation Law. A penalty was assessed upon the employer pursuant to Workers' Compensation Board Section 26-a. The employer filed an appeal requesting review of the Law Judge's assessment of a penalty. The Board denied the Application for Board Review based upon the employer's failure to provide a complete response to question number 15 on the application. Accordingly, the employer appealed to the Court.

Holding: *Affirmed.*

Discussion: The Court specifically indicates that they have consistently recognized that the Board may adopt reasonable rules consistent with and supplemental to the provisions of the Workers' Compensation Law and the Chair of the Board may make reasonable

regulations consistent with the provisions thereof. Accordingly, if a party who is represented by counsel fails to comply with the formatting, completion and service submission requirements set forth by the Board, the Board may, in its discretion, deny an Application for Review.

*Stewart, Greenblatt, Manning & Báez*