

STEWART, GREENBLATT, MANNING & BAEZ

MADGE E. GREENBLATT (RET.)
ROBERT W. MANNING
RICARDO A. BAEZ
DAVID J. GOLDSMITH
PETER MICHAEL DeCURTIS
LAURETTA L. CONNORS
JOHN K. HAMBERGER
LISA LEVINE
ANDREA L. De SALVIO
KRISTY L. BEHR
RAYMOND J. SULLIVAN
LUKE R. TARANTINO
THOMAS A. LUMPKIN
DIANE P. WHITFIELD

ATTORNEYS AT LAW
6800 JERICHO TURNPIKE

SUITE 100W

SYOSSET, NY 11791

516-433-6677

FAX 516-433-4342

DONALD R. STEWART (1949-2021)
KAFI WILFORD (2003-2010)
MICHAEL H. RUINA (1992-2016)

JAMES MURPHY
OF COUNSEL

Supreme Court, Appellate Division, Third Department, New York

In the Matter of TEODOR SZEWCZUK, Appellant
v.

ETS CONTRACTING, INC., et al, Respondent
and
WORKERS' COMPENSATION BOARD, Respondent

November 18, 2021

Facts: Appeal from a decision of the Workers' Compensation Board filed May 11, 2020 which ruled that claimant's Application for Board Review failed to comply with the service requirements of 12 NYCRR 300.13(b)(3) and denied review of a decision by the Workers' Compensation Law Judge.

The claimant herein stopped working with ETS Contracting in 2003 and filed a claim in 2019 after a physician provided an opinion of work-related hearing loss. A determination was made that the date of disablement was October 14, 2003 which was when the claimant knew or should have known that his condition was work-related. Accordingly, the claim was disallowed by the Workers' Compensation Law Judge. The claimant appealed and the Workers' Compensation Board exercised its discretionary authority to deny the application on the basis that the application did not include proof of service upon all necessary parties of interest as required by the Workers' Compensation Board's rules and regulations. The claimant appealed to the Court.

Holding: *Affirmed.*

Discussion: The Court simply affirmed the Board's exercise of its discretion to deny the application for failure to comply with the Board's rules and regulations as provided pursuant to 12 NYCRR 300.13(b)(4)(iv). Accordingly, neither the Board nor the Court addressed the merits of the claimant's application / appeal.