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Supreme Court, Appellate Division, Third Department, New York

In the Matter of JUANTIA JONES, Appellant

v.

NEW YORK CITY TRANSIT AUTHORITY, Respondent

and

WORKERS' COMPENSATION BOARD

November 17, 2022

Facts: This is an Appeal from a decision which ruled the claimant failed to comply with 12 NYCRR 300.13(b)(1) and denied review of a decision by a Judge.

The claim was established for the left wrist. A violation of Section 114-a of the Workers' Compensation Law was raised by the employer. A finding of a violation of Section 114-a was entered rescinding all awards previously paid and disqualified the claimant from any additional future awards of compensation. The claimant appealed utilizing the RB-89. A Rebuttal was filed. The Board denied the claimant's application finding she did not comply with the requirements of 12 NYCRR 300.13.

Holding: *Decision affirmed.*

Rationale: The Court focused on Question 15 on the form RB-89. The Court noted that the claimant inserted the date that the objection was interposed as January 8, 2021. Upon review of the record, there were no findings entered on that date regarding Section 114-a. The incorrect hearing date was entered in Question 15. An assertion was made in a reply that that this was a typographical error. The Court noted that as there were multiple hearings,

the Board was not required to deduce when the claimant's objection or exception was interposed. The Court found no abuse of discretion and affirmed the Board's decision.

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