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DONALD R. STEWART (1949-2021)

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Supreme Court, Appellate Division, Third Department, New York

In the Matter of TRINA YEARWOOD, Appellant

v.

LONG ISLAND UNIVERSITY et al, Respondents

and

WORKERS' COMPENSATION BOARD, Respondent

November 17, 2022

Facts: Appeal from decision of Workers' Compensation Board which disallowed claimant's claim for benefits.

The claimant was an associate university dean and sought treatment for complaints of bilateral wrist, hand and thumb pain and numbness on September 3, 2020. Based upon medical evidence provided by the treating physician diagnosing the claimant with a causally related occupational disease from repetitive stress and strain, the Workers' Compensation claim was filed. There was a finding of *prima facie medical evidence* for bilateral wrists, bilateral carpal tunnel syndrome and bilateral thumbs and an independent medical examination was conducted which concluded the claimant had bilateral thumb sprains and bilateral wrist and hand sprains and recommended an EMG study and diagnostic tests to rule out carpal tunnel syndrome. The claimant testified, disclosing for the first time on cross-examination that in 2014 she had sought treatment for hand problems from another physician and had undergone EMG testing.

The Judge established the case for occupational disease setting a date of disablement of September 3, 2020. An Appeal was filed and the Board reversed the Law Judge's

decision disallowing the claim in its entirety finding that the claimant's failure to report her treatment history to her treatment provider, the independent medical physician or the Board, that she had failed to satisfy her burden of submitting credible medical evidence demonstrating a causal connection between her proffered conditions and the current employment. The claimant files the instant Appeal.

Holding: *Affirmed.*

Rationale: The Court noted that while the Board may not totally reject uncontroverted medical testimony on the issue of causation and fashion its own medical opinion, the Board is entitled to reject medical opinions as insufficient where, as in the instant case, the Board finds that they were not based upon an understanding of the claimant's relevant medical treatment history. The Court stated that the Board took note that the treating physician did not testify, and the reports do not reflect that the claimant disclosed her 2014 treatment for hand problems and diagnostic tests. The C-3 claim form filed with the Board did not indicate information regarding prior hand injuries or treatment. The information was also not provided to the independent medical examiner nor was there a questionnaire filled out when the independent medical examination took place. Given the Board's conclusion that the claimant failed to disclose her relevant 2014 treatment history to either the Board or medical providers, the Board's conclusion is fully supported by the record and the disallowance of the claim will not be disturbed.

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