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Supreme Court, Appellate Division, Third Department, New York

In the Matter of PAULA OATHOUT, Respondent

v.

AVERILL PARK CENTRAL SCHOOLS, et al, Respondents

WORKERS' COMPENSATION BOARD, Respondent

August 25, 2016

Facts: The claimant, a custodial worker, testified that after cleaning a gym, she was walking down a hallway and felt a pop in her foot. The carrier denied the claim arguing that the injury was idiopathic. In support of that argument, it noted a congenital condition and the claimant's doctor's testimony that the injury may be partially due to it. However, the carrier's consultant could not make a direct conclusion that this was the case.

The Law Judge established the case and the Board affirmed. The carrier appealed.

Holding: Affirmed.

Discussion: Whether a compensable accident has occurred is a question of fact for the Board and its decision will be affirmed so long as it is based on substantial evidence. Furthermore, absent substantial evidence to the contrary, there is a presumption under Workers' Compensation Law Section 21 that an accident that occurs in the course of employment arises out of that employment. In this case there was substantial evidence to support the Board's conclusion that the accident was compensable and it should therefore be affirmed.