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State of New York Supreme Court, Appellate Division
Third Judicial Department
In the Matter of the Claim of

Janice Brown, Appellant,
v.
Plans Plus LTD. Et al., Respondents,
Workers' Compensation Board, Respondents

October 10, 2014

Facts: The claimant injured her back in 2010 and was classified with a permanent partial disability and an 80% LWEC in 2014. In December 2020, the claimant filed a C-35 seeking an extreme hardship redetermination and classification with a permanent total disability. The Carrier objected to this request and a hearing was held. The Law Judge found the claimant did not make a showing of extreme hardship and the Board affirmed. The Claimant appealed.

Decision: *Affirmed.*

Discussion: A claimant seeking reclassification must demonstrate financial hardship beyond the ordinary and existing to a very high degree. Claimant's testimony established she lived alone in a three-bedroom house on which she took out a \$150,000 equity loan prior to this work accident, the proceeds of which were not accounted for at the time of her application for reclassification pursuant to a finding of extreme hardship. She also leased a luxury vehicle costing \$477 per month. The fact that once her compensation benefits ended her expenses would exceed her income by \$300 a month was not enough to warrant a finding of extreme hardship. The Court found that the Boards determination was supported by the substantial evidence.