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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of Anthony FLOWERS, Appellant,
v.
ALKEM PLUMBING INC. et al., Respondents.
and
Workers' Compensation Board, Respondent.

September 2, 2021

Facts: Claimant was found to have an 85% schedule loss of use award of the right hand. Thereafter, he put forth a claim for additional workers' compensation benefits pursuant to Workers' Compensation Law § 15(3)(v), claiming that, due to this injury he could not be gainfully employed. The Judge found the claimant was entitled to benefits but the Board reversed because the claimant failed to demonstrate that the impairment of his earning capacity is due solely to his established right wrist injury. This appeal ensues.

Holding: *Affirmed.*

Discussion: The Court agreed that the claimant failed to prove that his inability to work was due solely to his work-related injury. The record contained references to the claimant's "bad knees," lack of education, and unfamiliarity with computers as factors. For these reasons, the Court found that the Board's decision was based on substantial evidence and should be affirmed.