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Supreme Court, Appellate Division, Third Department, New York

In the Matter of DONALD STANGE, Respondent

v.

ANGELICA TEXTILE SERVICES INC. et al., Appellants.

WORKERS' COMPENSATION BOARD, Respondent.

May 19, 2016

Facts: A work-related injury was established to the right shoulder and the employer authorized right shoulder surgery. A few months after surgery, the claimant stumbled on stairs and re-injured his right shoulder. A subsequent MRI showed a torn tendon in his right shoulder. The employer denied a subsequent request for additional surgery on the grounds that the claimant had suffered a new injury. The claimant's physician still proceeded with surgery. After review by the full Worker's Compensation Board, the Board found that claimant had suffered a consequential injury and entitled to benefits. The employer and its carrier appealed.

Holding: *Affirmed.*

Discussion: The Board's determination was a factual issue which will not be disturbed provided that it is supported by substantial evidence. Claimant's doctor testified that the resulting new tear was an extension of the original tear which had not fully healed. While the carrier's IME had a different conclusion, the Board discounting this opinion as the IME did not review of any of the claimant's medical records.