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Supreme Court, Appellate Division, Third Department, New York

In the Matter of JOANNE TURI, Appellant

v.

FIVE L. ENTERPRISES, INC. et al., Respondents.

WORKERS' COMPENSATION BOARD, Respondent.

May 19, 2016

Facts: This case involves a death claim and death benefits were awarded to the decedent's spouse. An Aggregate Trust Fund deposit was directed of \$270, 835.78 to be paid by carrier. The carrier continued to make payments to the decedent's spouse and dependents but did not make the deposit into the ATF. The claimant's spouse appealed that the carrier's lack of deposit into the ATF amounted to an untimely payment of compensation requiring a 20% penalty pursuant to WCL 25(3)(f). The Board found that claimant's spouse was not an aggrieved party with standing to request the imposition of a penalty under such circumstances. Claimant appealed.

Holding: *Affirmed.*

Discussion: The issue of late payment into the ATF is an issue between the ATF and the carrier and is of no consequence to the claimant. As such, the Board properly found that claimant lacked standing to request the penalty.