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Supreme Court, Appellate Division, Third Department, New York

In the Matter of CLOVIS WALKER, Appellant

v.

DARCON CONSTRUCTION CO. et al, Respondent

and

WORKERS' COMPENSATION BOARD, Respondent

August 25, 2016

- Facts:** The claimant sought a finding of a permanent total disability or total industrial disability. The carrier opposed this and argued that the claimant was not attached to the labor market. Eventually, it was determined that the claimant had a permanent partial disability but was not entitled to ongoing benefits because he was not attached to the labor market. He was further found not to have a total industrial disability. The Board Panel affirmed the Law Judge's findings and the claimant appealed.
- Holding:** Decision modified, in part, and remitted to the Board for further proceedings regarding whether or not the claimant has a total industrial disability.
- Discussion:** While the Court affirmed the Board's finding with respect to the claimant's reliance on an unfunded vocational program to be insufficient to prove attachment, it remanded the matter back to the Board for further consideration as to whether or not the claimant had a total industrial disability. The Court did not feel that the Board satisfied its obligations under Workers' Compensation Law Section 23 to include in its decision a statement of facts that form the basis of its decision.