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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of CHRISTOPHER WILLIAMS, Respondent,

v.

GENERAL ELECTRIC et al., Appellants,

and

SPECIAL FUND FOR REOPENED CASES, Respondent,

WORKERS' COMPENSATION BOARD, Respondent.

January 19, 2017

Facts: The case was established in 2005 for an injury to claimant's lower back. However, the disability was less than seven days so there were no compensable lost time and no lost wage benefits. More than seven years later in 2014, the employer and carrier requested a transfer of liability to the Special Fund for Reopened Cases pursuant to WCL §25-a. At the July 2014 hearing the WCLJ classified claimant with a 25% loss of wage-earning capacity and no compensable lost time. The WCLJ also found true closure and transferred liability to the Special Fund. On administrative review, it was found that liability should not shift to the Special Fund because of an August 2009 medical report from claimant's chiropractor which raised issues of permanency, thereby reopening the claim. Accordingly, the Special Fund should not be responsible for the claim. The carrier appealed.

Holding: *Affirmed.*

Discussion: The Court outlined the following facts that supported the Board's decision: the claimant continued to receive authorized treatment for lower-back pain with his chiropractor and on August 11, 2009 the chiropractor reported claimant had a 25% permanent partial disability. The Court affirmed the Board's decision based upon the substantial evidence.

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