

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT

Claim of Hazan v. WTC Volunteer Fund

120 A.D.3d 82, 987 N.Y.S.2d 484 (N.Y. App. Div. 2014) · Decided June 5, 2014

SUMMARY

The court held that Workers’ Compensation Law article 8-A does not require a World Trade Center volunteer to have served under the direction of an authorized rescue entity or volunteer agency. It reversed the Workers’ Compensation Board’s denial of benefits on that ground and remitted the matter for consideration of whether the claimant satisfied the statute’s time, location, and activity requirements. The court also noted that the Board could not supplement or amend the statute through administrative orders.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Egan Jr., J.; Lahtinen, J.E.; McCarthy, J.; Rose, J.; Lynch, J.
JURISDICTION	New York
DECIDED	June 5, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Claimant appealed the Workers’ Compensation Board’s reversal of a Workers’ Compensation Law Judge’s award of benefits for conditions allegedly caused by exposure to dust and toxins at World Trade Center sites.
STANDARD OF REVIEW	The court reviewed the Workers’ Compensation Board’s interpretation and application of Workers’ Compensation Law article 8-A, applying ordinary principles of statutory construction and requiring effect to the statute’s plain meaning.
PRECEDENTIAL VALUE	Published and precedential New York Appellate Division decision
PARTIES	Claimant v. WTC Volunteer Fund

TOPICS

- workers compensation
- statutory interpretation
- legislative intent
- administrative law
- appellate procedure

PRACTICE AREAS

Workers' compensation

Administrative law

Statutory interpretation

QUESTIONS PRESENTED

1. Whether Workers' Compensation Law article 8-A requires a volunteer seeking coverage to have served under the direction of an authorized rescue entity or volunteer agency.
2. Whether the Workers' Compensation Board could impose that affiliation requirement through an administrative order.
3. Whether claimant's application should be remitted for determination of whether he satisfied article 8-A's time, location, and activity requirements.

HOLDINGS

1. Article 8-A does not require an individual to have served under the direction of an authorized rescue entity or volunteer agency to qualify as a covered volunteer.
2. The Board's chair lacked authority to supplement or amend article 8-A by requiring affiliation with an authorized rescue entity or volunteer agency.
3. Claimant was not automatically entitled to benefits; the matter had to be remitted to the Board to determine whether he satisfied article 8-A's time, location, and activity requirements.

KEY QUOTATIONS

"Noticeably absent from both Workers' Compensation Law article 8-A and the commonly understood meaning of the word volunteer is any requirement that such individual 'serve under the direction of an authorized rescue entity or volunteer agency.'" (120 A.D.3d at 85)

"Accordingly, whatever the net effect of such orders may be, they 'cannot overrule the statute itself'" (120 A.D.3d at 87)

FACTUAL BACKGROUND

On September 11 and 12, 2001, claimant, a former emergency medical technician, voluntarily assisted at the Chelsea Piers triage center and at the World Trade Center site. He was not registered or affiliated with a volunteer organization or agency and did not participate after September 12, 2001. He later registered his participation and sought workers' compensation benefits for conditions allegedly caused by exposure to dust and toxins, including gastroesophageal reflux disease, depression, anxiety, chronic rhinitis, and sinusitis.

PROCEDURAL HISTORY

A Workers' Compensation Law Judge found that claimant sustained compensable injuries and awarded workers' compensation benefits. The Workers' Compensation Board reversed, concluding that claimant did not qualify as a volunteer because he did not serve under the direction of an authorized rescue entity or volunteer agency. The Appellate Division reversed that decision and remitted the matter to the Board to determine whether claimant satisfied the statute's time, location, and activity requirements.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remit to the Workers' Compensation Board for further proceedings, including consideration of whether claimant satisfied the time, location, and activity elements of Workers' Compensation Law article 8-A and whether his proof on those elements was sufficient.

CASES CITED

- Matter of Williams v. City of New York, 66 A.D.3d 1203, 1204 (N.Y. App. Div. 2009)
- Matter of Joyce (Coface N. Am. Ins. Co.—Commissioner of Labor), 116 A.D.3d 1132, 1133 (N.Y. App. Div. 2014)
- Matter of Talisman Energy USA, Inc. v. New York State Department of Environmental Conservation, 113 A.D.3d 902, 904 (N.Y. App. Div. 2014)
- Nostrom v. A.W. Chesterton Co., 15 N.Y.3d 502, 507 (2010)
- Majewski v. Broadalbin-Perth Central School District, 231 A.D.2d 102, 107 (N.Y. App. Div. 1997), aff'd, 91 N.Y.2d 577 (1998)
- Matter of Jessica D. v. Jeremy H., 77 A.D.3d 87, 89-91 (N.Y. App. Div. 2010)
- Matter of Russomanno v. Leon Decorating Co., 306 N.Y. 521, 525 (1954)