

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

Matter of Holder v. Office for People with Developmental Disabilities et al.

2023 NY Slip Op 02156 (App. Div. 2023) · No. 534936 · Decided April 27, 2023

SUMMARY

The New York Appellate Division, Third Department, affirmed the Workers' Compensation Board's denial of death benefits arising from the decedent's COVID-19 infection. The court held that substantial evidence supported the Board's finding that the claimant failed to establish a specific workplace exposure or a prevalence of COVID-19 in the decedent's work environment sufficient to show that the death arose out of and in the course of employment.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Ceresia, J.; Garry, P.J.; Clark, J.; Aarons, J.; Reynolds Fitzgerald, J.
JURISDICTION	New York
DECIDED	April 27, 2023
DOCKET	534936
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed from a Workers' Compensation Board decision disallowing her claim for workers' compensation death benefits after the Board reversed a Workers' Compensation Law Judge's determination establishing the claim.
STANDARD OF REVIEW	The Board's factual determination concerning whether a compensable accident occurred is reviewed for substantial evidence and will not be disturbed if supported by substantial evidence. The court also rejected the arbitrary-and-capricious challenge to the Board's failure to follow its own precedent because the cited cases were factually distinguishable.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion

PARTIES

Mariela Holder v. Office for People with Developmental Disabilities,
Workers' Compensation Board

TOPICS

workers compensation

judicial review of agency action

administrative law

employment law

health law

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether the claimant established that the decedent contracted COVID-19 in the course of his employment so as to qualify for workers' compensation death benefits.
2. Whether substantial evidence supported the Workers' Compensation Board's determination that the death was not causally related to employment.
3. Whether the Board acted arbitrarily and capriciously by failing to follow its own precedent.

HOLDINGS

1. The contraction of COVID-19 in the workplace reasonably qualifies as an unusual hazard, rather than the natural and unavoidable result of employment, and therefore may be compensable under the Workers' Compensation Law.
2. The claimant failed to meet her burden of demonstrating that the decedent contracted COVID-19 in the course of his employment because she offered no evidence of a specific workplace exposure or of COVID-19 prevalence in the group home or among relevant coworkers before or contemporaneously with symptom onset.
3. The Board's determination disallowing the claim was supported by substantial evidence and would not be disturbed.
4. The Board did not act arbitrarily and capriciously because the cases cited by the claimant were factually distinguishable.

KEY QUOTATIONS

“the contraction of COVID-19 in the workplace reasonably qualifies as an unusual hazard, not the natural and unavoidable result of employment and, thus, is compensable under the Workers' Compensation Law”
([*1])

“the claimant bears the burden of establishing that the subject injury arose out of and in the course of his or her employment” ([*1])

FACTUAL BACKGROUND

The decedent worked as a house manager for the Office for People with Developmental Disabilities and last worked on March 11, 2020. He began experiencing COVID-19 symptoms on March 13, was hospitalized, and died on March 29, 2020; his death certificate identified COVID-19 as the immediate cause. The claimant presented no evidence of a specific workplace exposure or of COVID-19 cases among residents or employees at the group home before or contemporaneously with the decedent's symptoms. The employer's witness testified that the decedent was the first known workplace infection and that another worker tested positive approximately two weeks after the decedent.

PROCEDURAL HISTORY

Mariela Holder sought workers' compensation death benefits, alleging that her husband's fatal COVID-19 infection arose from his employment as a group-home house manager. A Workers' Compensation Law Judge found the death causally related to employment and established the claim. On administrative review, the Workers' Compensation Board reversed, finding insufficient evidence that COVID-19 was prevalent in the workplace before or when the decedent developed symptoms. The Appellate Division affirmed the Board's decision.

DISPOSITION

affirmed

CASES CITED

- Matter of Pierre v ABF Frgt., 211 AD3d 1284, 1285 [3d Dept 2022]
- Matter of Leon v Monadnock Constr. Inc., 208 AD3d 1415, 1415 [3d Dept 2022]
- Matter of Minichino v Amazon.com DEDC LLC, 204 AD3d 1289, 1291 [3d Dept 2022]
- Matter of De La Cruz v Aufiero Painting Indus. Inc., 185 AD3d 1330, 1330 [3d Dept 2020]
- Employer: Southern Glazer's Wine, 2022 WL 4397485, *6, 2022 NY Wrk Comp LEXIS G2335750, *___ [WCB No. G233 5750, Sept. 20, 2022]
- Employer: Long Island DDSO, 2022 WL 594590, *5, 2022 NY Wrk Comp LEXIS 933, *12-13 [WCB No. G233 5526, Feb. 16, 2022]
- Employer: Manhattan Psychiatric Center, 2021 WL 5748736, *5, 2021 NY Wrk Comp LEXIS 5600, *11 [WCB No. G281 3814, Nov. 29, 2021]
- Employer: DOCCS Edgecombe Cor Facility, 2020 WL 7231882, *3-4, 2020 NY Wrk Comp LEXIS 15519, *9-10 [WCB No. G271 8395, Dec. 1, 2020]
- Matter of Gaspard v Queens Party Hall Inc., 189 AD3d 1880, 1881 [3d Dept 2020], lv denied 36 NY3d 912 [2021]
- Employer: All Metro Healthcare Aids Inc., 2022 WL 1125058, *3-5, 2022 NY Wrk Comp LEXIS 1982, *8-10 [WCB No. G233 6997, April 6, 2022]
- Matter of Middleton v Coxsackie Correctional Facility, 38 NY2d 130, 137 [1975]
- Matter of McDonough v Whitney Point Cent. School, 15 AD2d 191, 191-192 [1961]
- Matter of Holsopple v United Parcel Serv., 167 AD3d 1220, 1221 [3d Dept 2018]

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