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Supreme Court, Appellate Division, Third Department, New York

In the Matter of the Claim of SANDRA HAYNES, Respondent

v.

CATHOLIC CHARITIES, et. al, Appellant

and

WORKERS' COMPENSATION BOARD, Respondent.

January 28, 2016

Facts: The claimant filed a claim for a psychiatric injury having alleged it was as a result of an assault at work. Although the Carrier raised the defense of Section 2(7), the case was established. The carrier appealed.

Holding: Affirmed.

Discussion: The carrier alleged the claimant's condition was the consequence of having been issued two warning letters. In April 2012 the claimant was given a warning for failing to follow protocol. A second warning was sent in July 2012 based upon allegations of the claimant being rude to a fellow employee. However that second warning was issued without the employer either receiving a complaint from that other employee or having spoken with that employee. The Board determined the second letter was not issued in good faith.

Regarding the assertion as to the cause of the injury, the employee presented testimony from a licensed clinical social worker. That testimony reflected the claimant was complaining of stress prior to either letter and was due to work-related stress. The claimant testified she was unable to work due to the stress of having been punched at work by a client in July 2012. The Board credited the testimony of the claimant and her witness that they overheard a supervisor, human resource director, and associate director all making disparaging remarks about the claimant to each other. The Court deferred to the Board's ability to resolve issues of witness credibility.