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Supreme Court, Appellate Division, Third Department, New York

Matter of ARCOLINO R. TURNER, Claimant-Appellant

v

GRAPHIC PAPER INC., Respondent,

and

WORKERS' COMPENSATION BOARD, Respondent

Decided June 1, 2017

Facts: The claimant had four established workers' compensation claims, and the claimant was found to have a permanent partial disability and liability was apportioned between the February 2011 and January 2012 claims. At a hearing, the claimant raised issues of nonpayment of awards and requested reimbursement of medical and transportation expense, and the carrier was directed to provide a written response to the medical and transportation request. The claimant filed an appeal and the Board found that the claimant's appeal failed to specify issues or grounds for review pursuant to 12 NYCRR 300.13a, that it was proper to direct the carrier to submit a written response to the reimbursement request, and that an issue raised regarding attorney fees was not properly before the Board. Full Board Review was denied

Holding: *Affirmed.*

Discussion: Pursuant to the regulation in effect at that time, an application for Board review must make reference to the record below or such part thereof as is relevant to the issues and grounds raised in such application and indicate where they were raised before the WCLJ, and the Board may deny the application for review where the application failed to specify the issues or grounds for review. The claimant had challenged findings of classification, the rate of payment, apportionment and loss of wage earning capacity, but these issues were decided in a prior hearing and so were not timely raised in the claimant's application. The claimant's supplemental application regarding attorney's fees was filed outside the required 30 days, and

no attorney's fees had been awarded in that hearing or decision. The claimant had failed to raise any issues regarding the carrier's response to his request for reimbursement of medical and transportation expenses. Therefore, the Court found no reason to disturb the decision of the Board.

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