

Decided and Entered: May 16, 2013

514724

In the Matter of the Claim of
DOMINIC MAZZAFERRO,
Appellant,

v

FAST TRACK STRUCTURES, INC.,
et al.,
Respondents.

WORKERS' COMPENSATION BOARD,
Respondent.

AFFIRMED Board's denial of full board review as request lacked any new information to warrant a reconsideration.

MEMORANDUM AND ORDER

Calendar Date: April 22, 2013

Before: Lahtinen, J.P., Stein, McCarthy and Egan Jr., JJ.

Dominic Mazzaferro, Rochester, appellant pro se.

Buckner & Kourofsky, Rochester (Jacklyn M. Penna of counsel), for Fast Track Structures, Inc. and another, respondents.

Lahtinen, J.P.

Appeal from a decision of the Workers' Compensation Board, filed May 24, 2012, which denied claimant's request for reconsideration and/or full Board review.

In 1995, claimant suffered a work-related hernia injury while working for the employer. Claimant's workers' compensation claim was thereafter established and he was awarded benefits. Claimant later developed a testicular infarction and subsequently sought to amend his workers' compensation claim to include the

testicular infarction as a consequential injury. Following a hearing, a Workers' Compensation Law Judge denied claimant's application, finding that there was insufficient medical evidence of causality. Upon appeal, the Workers' Compensation Board affirmed. Claimant's application for reconsideration and/or full Board review was thereafter denied, and this appeal ensued.

Inasmuch as claimant has appealed only from the Board's denial of his request for reconsideration and/or full Board review, the merits of the underlying decision are not properly before us (see Matter of Capalbo v Stone & Webster Constr. Servs., 91 AD3d 1263, 1263-1264 [2012]; Matter of Maqsood v McRoberts Protective Agency, 79 AD3d 1547, 1547 [2010], lv dismissed 16 NY3d 871 [2011]). Accordingly, our analysis is limited to determining whether such denial was arbitrary and capricious or otherwise constituted an abuse of discretion (see Matter of Capalbo v Stone & Webster Constr. Servs., 91 AD3d at 1264; Matter of Maqsood v McRoberts Protective Agency, 79 AD3d at 1547). In that regard, we decline to disturb the Board's decision, as the record reflects that the Board considered all of the relevant material in rendering its initial decision, and claimant did not demonstrate a material change in his condition or present evidence that was previously unavailable (see Matter of DiPippo v Accurate Signs & Awnings, 88 AD3d 1044, 1045 [2011]; Matter of Maqsood v McRoberts Protective Agency, 79 AD3d at 1547).

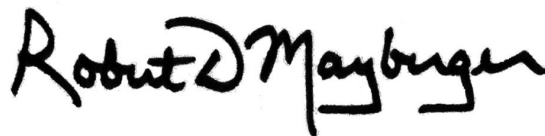
Stein, McCarthy and Egan Jr., JJ., concur.

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ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court