

Decided and Entered: December 13, 2012

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In the Matter of the Claim of
BARIZA LAIB,
Respondent,
v

AFFIRMED Board's ruling that claimant suffered
a causally related injury.

STATE INSURANCE FUND,
Appellant.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: November 20, 2012

Before: Peters, P.J., Rose, Lahtinen, Malone Jr. and Garry, JJ.

Michael Miliano, State Insurance Fund, Melville (Alisa Ammerman of counsel), for appellant.

Eric T. Schneiderman, Attorney General, New York City (Donya Fernandez of counsel), for Workers' Compensation Board, respondent.

Lahtinen, J.

Appeal from a decision of the Workers' Compensation Board, filed March 16, 2011, which ruled that claimant sustained a compensable injury and awarded workers' compensation benefits.

Claimant alleged that, while working as a case manager for the employer, she injured her right shoulder and elbow after repeatedly closing and pulling open the heavy front door of a building in which she worked during her five years of employment. Claimant described the door as being composed of thick metal and

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glass with a tight spring that was particularly difficult to open and close on windy days. She stated that she had to negotiate the door approximately four to six times a day. After she began having problems with her right shoulder and elbow, she repeatedly complained to the security guards in the lobby about the heavy door. Claimant requested permission from her supervisor to use the handicapped-accessible door and gave him a note from her doctor supporting that request. On May 29, 2009, claimant told her supervisor that she needed surgery on her shoulder. A C-4 medical report indicated a causal relationship between the injuries and claimant's work, and claimant applied for workers' compensation benefits, which were controverted by the employer. An independent medical examination confirmed the diagnosis of right shoulder impingement and indicated the "[r]ight shoulder arthroscopy" requested by claimant's physician was reasonable and should be approved. Following hearings, a Workers' Compensation Law Judge issued a decision determining that claimant had sustained an accidental injury in the course of her employment as a result of repetitive trauma and awarded her benefits. The Workers' Compensation Board affirmed and this appeal by the employer followed.

We affirm. "While an accidental injury must arise from unusual environmental conditions or events assignable to something extraordinary, it need not result suddenly or from the immediate application of some external force but may accrue gradually over a reasonably definite period of time" (Matter of Duncan v John Wiley & Sons, Inc., 54 AD3d 1124, 1125 [2008] [internal quotation marks and citations omitted]; see Matter of Johannesen v New York City Dept. of Hous. Preserv. & Dev., 84 NY2d 129, 136 [1994]). Here, we reject the employer's contention that the record lacks proof of an unusual or extraordinary condition or event that could cause claimant's accidental injury. In our view, being forced to negotiate heavy metal and glass doors connected to a tight spring in order to gain access to or leave your office building is "not the 'natural[] and unavoidable[e]' result of employment" as an office worker (Matter of Johannesen v New York City Dept. of Hous. Preserv. & Dev., 84 NY2d at 137, quoting Workers' Compensation Law § 2 [7]). Contrary to the employer's argument, we do not agree that the testimony of claimant regarding her struggles with the door was

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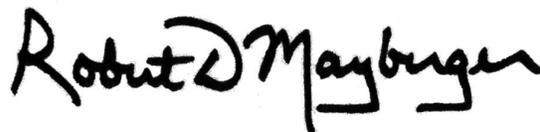
contradicted, as a matter of law, by the testimony of claimant's supervisor and the employer's investigator to the effect that they had no problems in operating the subject doors.¹ As it stands, we find that the Board's decision is supported by substantial evidence, regardless of the existence of proof that could support a contrary result (see Matter of Engler v United Parcel Serv., 16 AD3d 969, 970 [2005], lv denied 5 NY3d 705 [2005]).

The employer's remaining contentions have been considered and found to be unpersuasive.

Peters, P.J., Rose, Malone Jr. and Garry, JJ., concur.

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

¹ The investigator testified that he watched random people exiting and entering the building for 15-20 minutes and did not notice anyone having difficulties with the door. The Board did not find this proof helpful, however, noting that the investigator "did not make any distinction regarding the size of the people he observed opening the doors and did not observe the claimant [herself] opening the doors."