

Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 13, 2014

517146

In the Matter of the Claim of
ADOLFO DIZENZO,
Appellant,
v

AFFIRMED Board's ruling that
claimant had no further causally
related disability.

MEMORANDUM AND ORDER

HENDERSON & JOHNSON et al.,
Respondents.

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: January 7, 2014

Before: McCarthy, J.P., Garry, Rose and Egan Jr., JJ.

Law Office of Joseph A. Romano, Yonkers (Anthony Brooks-Morgese of counsel), for appellant.

Cherry, Edson & Kelly, LLP, Tarrytown (James U. Cavanagh of counsel), for Henderson & Johnson and another, respondents.

Egan Jr., J.

Appeal from a decision of the Workers' Compensation Board, filed December 5, 2012, which ruled that claimant did not sustain a further causally related injury.

Claimant slipped and fell on ice while working for the employer in January 2011, and his claim for workers' compensation benefits was established for injury to his right wrist, right shoulder and left knee. Thereafter, claimant submitted a report from one of his treating physicians indicating additional injuries to his neck and back. Following depositions of, among

-2-

517146

others, both of claimant's treating physicians, a Workers' Compensation Law Judge concluded that claimant did not sustain causally related neck and back injuries. Upon review, the Workers' Compensation Board affirmed, prompting this appeal.

It was claimant's burden to establish a causal relationship between his workplace accident and his claimed neck and back injuries (see Matter of Perez v Mondial Tiles, Inc., 104 AD3d 998, 998 [2013]; Matter of Jaquin v Community Covenant Church, 69 AD3d 998, 999 [2010]), which requires medical opinion evidence regarding the probability of a causal relationship supported by a rational basis; a general expression of possibility will not suffice (see Matter of Benjamin v Sprint/Nextel, 67 AD3d 1277, 1278 [2009]; Matter of Norton v North Syracuse Cent. School Dist., 59 AD3d 890, 891 [2009]). Here, claimant's treating physicians opined that his fall may have exacerbated existing degenerative conditions, but failed to convincingly or conclusively establish that this was in fact the case. Notably, claimant's physicians acknowledged that there was no evidence of acute injury to claimant's neck or back, and his initial complaints and corresponding medical treatment did not include those areas. Accordingly, we find that the Board's determination is supported by substantial evidence and we will not disturb it (see Matter of Jaquin v Community Covenant Church, 69 AD3d at 999-1000; Matter of Benjamin v Sprint/Nextel, 67 AD3d at 1278-1279).

McCarthy, J.P., Garry and Rose, JJ., concur.

ORDERED that the decision is affirmed, without costs.

ENTER:

