

Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: August 7, 2014

517138

In the Matter of the Claim of  
ANDREW FRASER,  
Appellant,  
v



NYC SCHOOLS CONSTRUCTION ROCIP  
et al.,  
Respondents.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,  
Respondent.

Calendar Date: June 2, 2014

Before: Stein, J.P., McCarthy, Garry, Lynch and Devine, JJ.

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

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

Lynch, J.

Appeal from a decision of the Workers' Compensation Board, filed October 29, 2012, which, among other things, **denied claimant's request for a change of venue.**

Claimant, who resides in Suffolk County, filed a claim for workers' compensation benefits alleging that he was injured in the course of his employment as an ironworker in New York City. Claimant signed a form, provided by his attorneys, that gave him

three choices of hearing venue preference in Westchester County or Rockland County; claimant circled "White Plains." The Workers' Compensation Board denied the change of venue "request" and assessed a penalty against claimant's counsel pursuant to Workers' Compensation Law § 114-a (3) (ii) for seeking review without reasonable grounds. Claimant appeals, challenging both the denial of venue transfer and the penalty.

Generally, the chair of the Board is authorized to set the time and location for Board hearings (see Workers' Compensation Law § 141; 12 NYCRR 300.7; Matter of Toledo v Administration for Children's Servs., 112 AD3d 1209, 1210 [2013]). Inasmuch as claimant failed to demonstrate any connection to White Plains and argued only that such requests should be granted to "accommodate . . . the idiosyncrasies of each claimant," the Board properly determined that claimant failed to articulate any justification for a change in venue (see Matter of Toledo v Administration for Children Servs., 112 AD3d at 1210; Matter of Wolfe v New York City Dept. of Corr., 112 AD3d 1197, 1198 [2013]). Moreover, given the absence of a legitimate basis for seeking the venue change and the fact that the Board had previously rejected several other similar venue change requests by counsel (see e.g. Matter of Stewart v NYC Tr. Auth., 115 AD3d 1046, 1046-1047 [2014]), substantial evidence supports the Board's determination that a penalty was warranted because there was no reasonable basis to support the appeal to the Board (see Matter of Toledo v Administration for Children Servs., 112 AD3d at 1210; Matter of Banton v New York City Dept. of Corr., 112 AD3d 1195, 1196-1197 [2013]). Accordingly, we will not disturb the Board's decision.

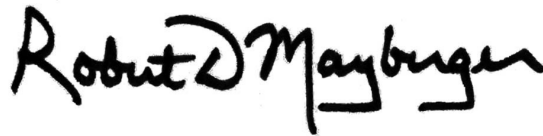
Stein, J.P., McCarthy, Garry and Devine, JJ., concur.

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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