

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: June 18, 2009

504357

In the Matter of the Claim of
GEORGE F. CURLEY,
Respondent,

v

BINGHAMTON-JOHNSON CITY JOINT
SEWAGE BOARD et al.,
Appellants.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: April 27, 2009

Before: Mercure, J.P., Spain, Malone Jr., Kavanagh and
McCarthy, JJ.

Coughlin & Gerhart, L.L.P., Binghamton (Lars P. Mead of
counsel), for appellants.

Andrew M. Cuomo, Attorney General, New York City (Steven
Segall of counsel), for Workers' Compensation Board, respondent.

Kavanagh, J.

Appeals from two decisions of the Workers' Compensation
Board, filed May 14, 2007 and February 21, 2008, which, among
other things, granted the employer's request for reimbursement.

In November 2005, claimant injured his back while at work
and, as a result, was out of work from December 1, 2005 until
October 30, 2006. His employer continued to pay his wages until
January 6, 2006. After his workers' compensation claim was

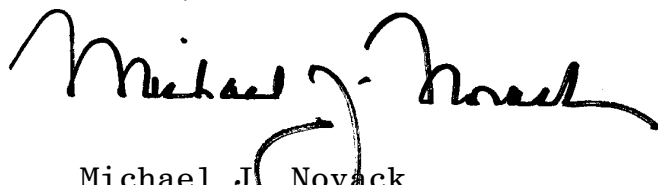
established and compensation was awarded in the amount of \$400 per week, the employer sought reimbursement from its third-party administrator, the Public Employers Risk Management Association, for the wages it had paid claimant during this period. A Workers' Compensation Law Judge (hereinafter WCLJ) decided that for the period during which the employer continued to pay claimant wages, it should be reimbursed, except for any wages paid "pursuant to a contract of employment, for the use of non-restorable leave credits." Taking issue only with the language in the decision regarding claimant's leave credits, the employer applied for Board review. A Board panel affirmed the WCLJ's decision. The employer then sought review by the full Board, which was denied, prompting these appeals.

We agree with the Board that the employer is not an aggrieved party. Per its request, the employer was fully reimbursed for the wages it paid to claimant and, in fact, does not challenge the amount (\$2,080) it received. While it takes issue with certain language contained in the WCLJ's decision, having received the relief it sought, the employer is not an aggrieved party and has no standing to appeal that decision (see CPLR 5511; Matter of Baker v Horace NYE Home, ___ AD3d ___ [decided herewith]). Its challenge must therefore be dismissed.

Mercure, J.P., Spain, Malone Jr. and McCarthy, JJ., concur.

ORDERED that the appeals are dismissed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is written in a cursive, flowing style with a large loop at the end.

Michael J. Novack
Clerk of the Court