

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

Decided and Entered: July 2, 2009

505284

In the Matter of the Claim of
REDA EL HASSANEIN,
Appellant,

v

YANKEE STOP CORPORATION,
Respondent,
et al.,
Respondent.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: May 28, 2009

Before: Cardona, P.J., Mercure, Lahtinen, Malone Jr. and
Stein, JJ.

Reda El Hassanein, Astoria, appellant pro se.

Paul D. Jaffe, White Plains, for Yankee Stop Corporation,
respondent.

Lahtinen, J.

Appeal from a decision of the Workers' Compensation Board,
filed July 3, 2008, which ruled that claimant was not an employee
of Yankee Stop Corporation and denied his claim for workers'
compensation benefits.

Claimant alleged that he worked at a delicatessen operated
by Yankee Stop Corporation and was injured while attempting to
move a steam table on January 23, 2005. Claimant thereafter

applied for workers' compensation benefits, which were denied by a Workers' Compensation Law Judge (hereinafter WCLJ) on the ground that claimant was not working for Yankee. On appeal, the Workers' Compensation Board reopened the record to allow for the submission of further evidence, following which the WCLJ again found that no employer-employee relationship existed. The Board affirmed that decision and claimant now appeals.

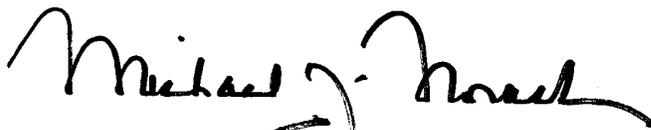
We affirm. Whether an employer-employee relationship exists is a factual issue for the Board and its determination will be upheld if supported by substantial evidence (see Matter of Jara v SMJ Env'tl., Inc., 55 AD3d 1157, 1158 [2008]; Matter of Jin Liu v Tak Chan Yeung, 15 AD3d 752, 752 [2005]). In this case, two of Yankee's owners testified that claimant did not work for it. Indeed, one of the owners testified that he did not know claimant and had only seen him in connection with legal proceedings. Although claimant and others testified that claimant did work for Yankee, the Board was free to credit the owners' testimony and we decline to disturb its decision (see Matter of Jin Liu v Tak Chan Yeung, 15 AD3d at 752).

Lastly, nothing in the record substantiates claimant's assertion that the WCLJ who decided his case was biased against him.

Cardona, P.J., Mercure, Malone Jr. and Stein, JJ., concur.

ORDERED that the decision is affirmed, 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