

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

Decided and Entered: June 21, 2007

501026

In the Matter of the Claim of
RONNIE RAMROOP,
Appellant,

v

FLEXO-CRAFT PRINTING, INC.,
et al.,
Respondents.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: April 25, 2007

Before: Crew III, J.P., Spain, Mugglin, Lahtinen and Kane, JJ.

Joel M. Gluck, New York City, for appellant.

Gregory J. Allen, State Insurance Fund, New York City
(Aviva Sharbin of counsel), for Flexo-Craft Printing, Inc. and
another, respondents.

Crew III, J.P.

Appeal from a decision of the Workers' Compensation Board,
filed November 7, 2005, which ruled that claimant was not
entitled to additional workers' compensation benefits pursuant to
Workers' Compensation Law § 15 (3) (v).

Claimant sustained a work-related injury to his right hand
in 1995 and, after he was awarded a 75% schedule loss of use of
his hand, his case was closed. Thereafter, in 2002, claimant
requested that his case be reopened to determine whether he was

entitled to additional benefits pursuant to Workers' Compensation law § 15 (3) (v). A Workers' Compensation Law Judge found claimant eligible for additional benefits, but that determination was rescinded by the Workers' Compensation Board and the matter was remanded for further testimony. Following an additional hearing, claimant was again found eligible for additional benefits. Upon appeal, the Board again reversed, finding that claimant did not meet the criteria for additional benefits. Claimant now appeals.

Workers' Compensation Law § 15 (3) (v) provides for additional compensation, following determination of the claimant's schedule payments, to a claimant whose earning capacity is impaired by reason of a job-related loss of use of 50% or more of, among other things, a hand. In order to be eligible for such additional compensation, a claimant must initially establish that his or her impairment of earning capacity is due "solely" to the compensable injury (Workers' Compensation Law § 15 [3] [v]). Here, the Board quite properly found that because claimant was an undocumented alien, he was ineligible for employment in the United States and, thus, his loss of earning capacity was not solely attributable to his compensable injury. Contrary to claimant's contention, Workers' Compensation Law § 17 does not compel a contrary result.

Spain, Mugglin, Lahtinen and Kane, 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 style with a large, looping initial "M".

Michael J. Novack
Clerk of the Court