

Supreme Court, Appellate Division

Third Judicial Department

Decided and Entered: September 27, 2012

512408

DISMISSED appeal as interlocutory

In the Matter of WILLIAM
HOLLIS,

Appellant,

v

MEMORANDUM AND ORDER

MORELLI MASONS, INC., et al.,
Respondents.

WORKERS' COMPENSATION BOARD,
Respondent.

Calendar Date: September 5, 2012

Before: Mercure, J.P., Rose, Lahtinen, Kavanagh and Garry, JJ.

Pasternack, Tilker, Ziegler, Walsh, Stanton & Romano, LLP,
New York City (Michael K. Gruber of counsel), for appellant.

Weiss, Wexler & Wornow, New York City (Michael J. Reynolds
of counsel), for Morelli Masons, Inc. and another, respondents.

Rose, J.

Appeal from a decision of the Workers' Compensation Board,
filed August 18, 2010, which, among other things, established a
claim for certain occupational diseases.

Claimant applied for workers' compensation benefits in 2000
alleging certain occupational diseases based upon his exposure to
asbestos and other irritants. Hearings were held over the course
of several years, culminating in a decision by the Workers'
Compensation Law Judge disallowing the claim. Upon review, the
Workers' Compensation Board modified, and established the claim

-2-

512408

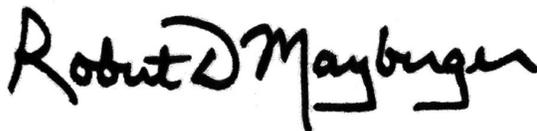
for asbestos-related pleural disease and chronic irritative bronchitis. The Board also determined that claimant is not entitled to the inference that his loss of earnings is attributable to his occupational diseases and returned the case to the calendar for further development of the record on the issue of causally-related loss of earnings. Claimant now appeals, arguing that the Board erred in determining that he is not entitled to the inference.

Because the Board's decision is interlocutory in nature and does not dispose of all substantive issues or reach threshold legal issues that may be determinative of the claim, it is not properly the subject of an appeal (see Matter of Ortiz v Martin Viette Nurseries, 82 AD3d 1480, 1480 [2011]; Matter of Ogbuagu v Ngbadi, 61 AD3d 1198, 1199 [2009]). Rather, the Board's nonfinal decision is reviewable upon appeal from the Board's final determination (see Matter of Ortiz v Martin Viette Nurseries, 82 AD3d at 1480-1481; Matter of Ogbuagu v Ngbadi, 61 AD3d at 1199).

Mercure, J.P., Lahtinen, Kavanagh and Garry, JJ., concur.

ORDERED that the appeal is dismissed, 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