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

Decided and Entered: November 19, 2026 CV-25-0862

In the Matter of the Claim of
ROBERT LEWIS,
Respondent,
v

PUBLIC SERVICE ELECTRIC
AND GAS COMPANY INC. MEMORANDUM AND ORDER
et al.,
Appellants.

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: October 14, 2026

Before: Aarons, J.P., Ceresia, Fisher, Powers and Corcoran, JJ.

Law Office of Destin C. Santacrose, Buffalo (*Rayna J. White-Martinez* of counsel), for appellants.

Letitia James, Attorney General, New York City (*Nina M. Sas* of counsel), for Workers' Compensation Board, respondent.

Aarons, J.P.

Appeal from a decision of the Workers' Compensation Board, filed April 14, 2025, which, among other things, held in abeyance certain awards pending further development of the record.

After a claim for work-related injuries to claimant's neck and back arising out of a February 2022 accident was established, a Workers' Compensation Law Judge (hereinafter WCLJ) issued a May 2024 decision finding that claimant had not voluntarily retired from the work force and awarded certain benefits. The WCLJ made further awards in a December 2024 decision and continued the case to consider, among other things, the permanency of the established injuries. The WCLJ conducted a hearing in January 2025 in which he declined the request of the employer and its workers' compensation carrier (hereinafter collectively referred to as the carrier) to have the case travel together with two prior claims for work-related injuries allegedly sustained by claimant so that his overall permanent impairment could be assessed. The WCLJ issued a decision the same month that reserved decision and continued the case. The carrier sought administrative review of the May 2024, December 2024 and January 2025 decisions. The Workers' Compensation Board thereafter held the first two decisions in abeyance and remitted for further proceedings on the voluntary removal issue, but affirmed the January 2025 decision. In so doing, the Board found that the WCLJ properly declined to direct that the claims travel together because the present case was ready for a permanency hearing and the other claims had not yet been established and involved different sites of injury. The carrier appeals.

"This Court generally will not conduct a piecemeal review of the issues presented in a nonfinal decision in workers' compensation cases that will be reviewable upon an appeal of the Board's final decision" (*Matter of Pena v Cardinal McCloskey Sch.*, 217 AD3d 1291, 1292 [3d Dept 2023] [internal quotation marks and citations omitted]; *see Matter of Sessa v Allen Health Care Serv.*, 234 AD3d 1190, 1190-1191 [3d Dept 2025]). An appeal from a Board decision will therefore be dismissed if the decision is interlocutory and neither disposes of all substantive issues nor addresses a potentially dispositive threshold legal issue (*see Matter of Sessa v Allen Health Care Serv.*, 234 AD3d at 1191; *Matter of Polizzano v Medline Indus.*, 207 AD3d 939, 940-941 [3d Dept 2022]). The decision at issue here did not finally resolve all substantive issues and, notwithstanding the carrier's claim to the contrary, the Board's alleged error in failing to direct that the claims travel together pending a permanency determination is not a "potentially dispositive threshold legal issue[ ] that could preclude claimant from receiving benefits" (*Matter of Pena v Cardinal McCloskey Sch.*, 217 AD3d at 1293; *see Matter of Fowler v Crouse Community Ctr.*, 101 AD3d 1568, 1569 [3d Dept 2012]; *Matter of Bush v Beltrone Constr.*, 289 AD2d 722, 723 [3d Dept 2001]). Thus, the appeal is dismissed.

Ceresia, Fisher, Powers and Corcoran, JJ., concur.

ORDERED that the appeal is dismissed, without costs.

ENTER:



Robert D. Mayberger
Clerk of the Court