

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

Decided and Entered: October 15, 2026

CV-23-2457

In the Matter of the Claim of JULIUS
W. BROWN,
Appellant,
v

NEW YORK CITY TRANSIT
AUTHORITY,
Respondent.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: September 16, 2026

Before: Reynolds Fitzgerald, J.P., Fisher, McShan, Mackey and Corcoran, JJ.

Grey & Grey, LLP, Farmingdale (*Sanjai Doobay* of counsel), for appellant.

Weiss, Wexler & Wornow, PC, New York City (*J. Evan Perigoe* of counsel), for
New York City Transit Authority, respondent.

Fisher, J.

Appeal from a decision of the Workers' Compensation Board, filed December 18, 2023, which ruled that claimant did not sustain a compensable injury and denied his claim for workers' compensation benefits.

In September 2020, claimant, a cleaner of stations for the transportation authority, was notified that an accident had occurred on a platform. Claimant responded to the scene and observed a woman whose foot had been mangled after being caught between the platform and the train door. After emergency medical personnel took the woman to the hospital, claimant's supervisor directed claimant to clean any blood resulting from the woman's injuries and disinfect the area. Shortly after witnessing the event, claimant sought mental health treatment and was diagnosed with posttraumatic stress disorder (hereinafter PTSD). As a result, claimant filed a claim for workers' compensation benefits, alleging that his PTSD had been caused by witnessing the woman's injury. The self-insured employer controverted the claim, and, following further proceedings, the Workers' Compensation Law Judge established the claim for work-related PTSD and, among other things, awarded benefits for periods of temporary total disability. Upon administrative appeal, the Workers' Compensation Board reversed, finding that claimant did not experience stress greater than that of similarly situated workers. Claimant appeals.

Claimant contends that the Board erred in not applying the standard for mental health injury claims as articulated in *Matter of Anderson v City of Yonkers* (227 AD3d 63 [3d Dept 2024], *revd* 45 NY3d 251 [2025]). Claimant's reliance on that case, however, is misplaced as the standard articulated in that matter was reversed by the Court of Appeals in *Matter of McLaurin v New York City Tr. Auth.* (45 NY3d 251 [2025]). To be sure, "the general rule at the time [the Board's decision] was rendered was that 'emotional stress-induced psychological injury was considered accidental only if the claimant established that the stress they experienced in the workplace was greater than that which other similarly situated workers experienced in the normal work environment' " (*Matter of Croom v New York State Dept. of Corr. and Community Supervision*, 250 AD3d 1294, 1296 [3d Dept 2026], quoting *Matter of McLaurin v New York City Tr. Auth.*, 45 NY3d at 259; see *Matter of Williams v New York City Tr. Auth.*, 250 AD3d 1282, 1284-1285 [3d Dept 2026]; *Matter of Shakil v New York City Tr. Auth.*, 249 AD3d 1246, 1252 [3d Dept 2026]; *Matter of Wallace v New York City Sch. Support Servs., Inc.*, 247 AD3d 1401, 1402-1403 [3d Dept 2026]). "Whether an incident amounts to a workplace accident requires the Board to consider whether the alleged stressor is one the claimant should reasonably and ordinarily be expected to encounter in the normal work environment, and is therefore non-accidental, or whether the stressor was instead an unusual, unexpected or extraordinary part thereof and therefore accidental" (*Matter of Wallace v New York City Sch. Support Servs., Inc.*, 247 AD3d at 1403 [internal quotation marks, brackets and citations omitted]; see *Matter of Williams v New York City Tr. Auth.*, 250 AD3d at 1285). Whether a compensable accident occurred is a factual issue for the Board to resolve, and its decision will not be disturbed if supported by substantial evidence in the record (see

Matter of Wallace v New York City Sch. Support Servs., Inc., 247 AD3d at 1402; *Matter of Rivenburg v County of Albany*, 187 AD3d 1282, 1284 [3d Dept 2020]).

Claimant testified that, on the day of the incident, he was notified by two customers that a woman had been injured down on the platform. When claimant arrived on the platform, he witnessed the woman's foot caught between the platform and train car door and watched while subway customers pulled the woman's leg loose – which according to claimant was "jumbled up." Claimant confirmed that he did not provide any hands-on assistance with the woman.¹ After the woman was taken to the hospital by emergency medical personnel, claimant was instructed by a supervisor to clean the blood left by the injury and disinfect the area. When questioned, claimant was unable to quantify whether the blood on the platform from the accident was a little or a lot.

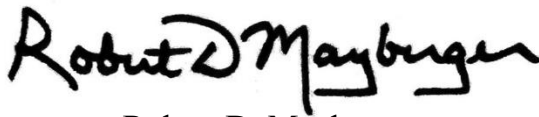
Although the record establishes that such subway incidents do occur, albeit rarely, it was not unexpected as claimant acknowledged that his job duties included cleaning up hazardous materials, including blood. Furthermore, despite not returning to his employment as a cleaner for nearly a year, claimant admitted that, during that time, he worked as a film extra for a casting network and concentrated on participating in a body building show for which he engaged in daily acts of physical exercise and maintained a specific and regimented diet. In view of the foregoing, the Board's factual determination that claimant did not experience stress greater than any other cleaner on duty in a subway station to establish a compensable injury is supported by substantial evidence (*see Matter of Williams v New York City Tr. Auth.*, 250 AD3d at 1286; *Matter of Croom v New York City Tr. Auth.*, 250 AD3d at 1298; *Matter of Rivenburg v County of Albany*, 187 AD3d at 1284). Accordingly, the Board's decision will not be disturbed.

Reynolds Fitzgerald, J.P., McShan, Mackey and Corcoran, JJ., concur.

¹ Claimant does not challenge the Board's finding that he was not an active participant in the accident. We note that, whether a claimant is an "active participant . . . is not a test to ensure that mental injuries are genuine" but is "simply one category of claimants who might recover workers' compensation for injuries that result from witnessing events that befell someone else" (*Matter of Wood v Laidlaw Tr.*, 77 NY2d 79, 84 [1990] [internal quotation marks omitted]). Under certain circumstances, workers' compensation may be available to a claimant who experienced psychological harm from witnessing an injury to someone else (*see generally id.* at 84-85).

ORDERED that the decision is affirmed, without costs.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large initial "R" and "M".

Robert D. Mayberger
Clerk of the Court