

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

Decided and Entered: August 27, 2026

CV-25-1288

In the Matter of the Claim of
LONNIE LANGWORTHY,
Appellant,

v

C. MCKENNA PROPERTY
MANAGEMENT LLC et al.,
Respondents.

MEMORANDUM AND ORDER

WORKERS' COMPENSATION
BOARD,
Respondent.

Calendar Date: August 19, 2026

Before: Garry, P.J., Fisher, Powers, Corcoran and Ryba, JJ.

Lonnie Langworthy, Olmstedville, appellant pro se.

Walsh and Hacker, Albany (*Jeffrey M. Fox* of counsel), for C. Mckenna Property Management LLC and another, respondents.

Powers, J.

Appeal from a decision of the Workers' Compensation Board, filed July 21, 2025, which denied claimant's application for reconsideration and/or full Board review.

In January 2024, claimant filed a claim for workers' compensation benefits alleging that he fell on the job which resulted in an injury to his left shoulder. A Workers'

Compensation Law Judge denied the claim after hearings and, in a May 2025 decision, the Workers' Compensation Board affirmed that denial. Claimant then applied for reconsideration and/or full Board review. In July 2025, the Board denied claimant's application and he appeals from that subsequent decision.

We affirm. Inasmuch as claimant has appealed only from the Board's July 2025 decision denying his application for reconsideration and/or full Board review, the merits of the Board's May 2025 decision are not properly before us (*see Matter of Sheodial v Universal Constr. Resources Inc.*, 246 AD3d 1214, 1215 [3d Dept 2026]; *Matter of Lopez v Platoon Constr., Inc.*, 212 AD3d 953, 954 [3d Dept 2023]). Rather, our review is limited to whether the Board's denial of claimant's application was arbitrary and capricious or otherwise constituted an abuse of discretion (*see Matter of Wagner v Bobley Publ. Corp.*, 245 AD3d 1048, 1050 [3d Dept 2026]; *Matter of Campos v Federal Express Corp.*, 181 AD3d 1118, 1119 [3d Dept 2020]).

"In order to obtain review or reconsideration, claimant must demonstrate that newly discovered evidence exists, that there has been a material change in condition, or that the Board improperly failed to consider the issues raised in the application for review in making its initial determination" (*Matter of Amaker v City of N.Y Dept. of Transp.*, 144 AD3d 1342, 1343 [3d Dept 2016] [internal quotation marks and citations omitted]; *see Matter of Pinson v North Gate Health Care Facility*, 244 AD3d 1691, 1692 [3d Dept 2025]). The record reflects that the Board considered the issues before it in its May 2025 decision and, inasmuch as claimant did not produce any newly discovered evidence or assert a change in his condition, we cannot say that denial of his application for reconsideration and/or full Board review was arbitrary and capricious or an abuse of discretion (*see Matter of Sheodial v Universal Constr. Resources Inc.*, 246 AD3d at 1215; *Matter of Pinson v North Gate Health Care Facility*, 244 AD3d at 1692).¹

Garry, P.J., Fisher, Corcoran and Ryba, JJ., concur.

¹ Claimant's challenges to the Board's credibility determinations and legal conclusions could have, and should have, been raised in a direct appeal of the Board's May 2025 decision (*see Matter of Pinson v North Gate Health Care Facility*, 244 AD3d at 1692).

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, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court