

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Beales and Senior Judge Clements

TOMMY FRAZIER, D/B/A
TOMMY'S TREE SERVICE

v. Record No. 0359-13-4

FERNANDO QUIROZ

MEMORANDUM OPINION*
PER CURIAM
JULY 9, 2013

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Mark R. Dycio; T. Wayne Biggs; Justin L. Watson; Dycio & Biggs,
on briefs), for appellant.

(James E. Swiger, on brief), for appellee.

Tommy Frazier, d/b/a Tommy's Tree Service (employer) appeals rulings of the Workers' Compensation Commission regarding a claim for compensation relating to the October 20, 2008 work-related accident of Fernando Quiroz (claimant). Employer claims the commission erred: 1) in finding employer regularly employed three or more employees and, thus, was subject to the Virginia Workers' Compensation Act; 2) in ruling employer was a "statutory employer" pursuant to Code § 65.2-302 based upon the number of employees working on one day and in the absence of evidence of necessary relationships between and among employer, a subcontractor, and claimant; 3) in finding the deputy commissioner did not err in considering the hearing transcript and record in a separate workers' compensation case involving employer; 4) in ruling the deputy commissioner did not abuse her discretion in refusing employer's request for a continuance; and 5) in concluding the deputy commissioner did not err by failing to disclose a prior professional relationship with counsel for claimant. We have reviewed the record and the commission's

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Quiroz v. Tommy Frazier, VWC File No. VA010-0242-2070 (Jan. 28, 2013). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.