

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Petty and Senior Judge Bumgardner

TRACY A. KOHUT

v. Record No. 0988-08-1

MEMORANDUM OPINION\*  
PER CURIAM  
SEPTEMBER 16, 2008

PIEDMONT REGIONAL EDUCATION PROGRAM AND  
VSBA WORKERS COMPENSATION GROUP

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Patrick R. Bynum, Jr., on brief), for appellant.

(Lisa Frisina Clement; Wendy E. Warren; PennStuart, on brief), for  
appellees.

Tracy A. Kohut (claimant) appeals a decision of the Workers' Compensation Commission denying her claim for an award of compensation benefits for the period from December 5, 2006 through May 25, 2007. On appeal, claimant presents the following two questions: (1) Did claimant present evidence of medical causation for her disability; and (2) did claimant present sufficient evidence that she adequately marketed her residual capacity during requested periods of December 5, 2006 through May 25, 2007, on the ground she was released to full duty through January 24, 2007.

Claimant presents no argument and cites no authorities in support of her first question, as required by Rule 5A:20(e). Rather, the entirety of her argument relates to whether she adequately and reasonably marketed her residual work capacity. Because we find her failure to comply with Rule 5A:20(e) is significant, this question is waived. See Jay v. Commonwealth, 275 Va. 510, 520, 659 S.E.2d 311, 317 (2008). Therefore, we need not consider it.

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

With respect to the second question, we have reviewed the record and the commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Kohut v. Piedmont Regional Educ. Prog., VWC File No. 231-34-87 (Mar. 18, 2008). 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.<sup>1</sup>

Affirmed.

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<sup>1</sup> We note that in summarily affirming the commission's decision with respect to the issue raised by claimant in her second question presented on appeal, we did not consider any evidence not properly before the commission when it rendered its decision. Specifically, we did not consider evidence of marketing contacts listed in the February 14, 2008 letter filed by claimant upon review, which were not already before the commission, and referred to in her opening brief. The commission refused to consider the evidence of marketing contacts contained in that letter, because claimant failed to prove the criteria necessary to admit it as after-discovered evidence. Claimant did not appeal that finding to this Court, and, therefore, it is binding and conclusive upon us.