

COURT OF APPEALS OF VIRGINIA

Present: Judge McClanahan, Senior Judges Coleman and Annunziata

GENESYS CONFERENCING, INC. AND
PACIFIC INDEMNITY CO.

v. Record No. 1307-05-4

WILLIAM M. HARPER

MEMORANDUM OPINION*
PER CURIAM
NOVEMBER 1, 2005

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Robert C. Baker, Jr.; Dobbs & Baker, on brief), for appellants.

(Benjamin J. Trichilo; Trichilo, Bancroft, McGavin, Horvath &
Judkins, P.C., on brief), for appellee.

Genesys Conferencing, Inc. and its insurer (hereinafter referred to as "employer") appeal a decision of the Workers' Compensation Commission awarding benefits to William M. Harper (claimant). Employer contends the commission erred in finding that claimant proved he (1) adequately marketed his residual work capacity between June 17, 2004 and August 18, 2004; and (2) continued to be disabled after October 14, 2004, as a result of his compensable October 27, 2003 injury by accident.¹ We have reviewed the record and the commission's opinion and find no reversible error. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Harper v. Genesys Conferencing Inc., VWC File No. 216-42-34 (May 3,

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

¹ Employer also argues in its opening brief that the commission erred in finding that claimant justifiably refused selective employment, citing to pages 111 and 233-34 of the joint appendix as the place where this issue was preserved for appellate review. Our review of the record reveals that employer never raised the defense of unjustified refusal of selective employment before the commission. Accordingly, we will not address it for the first time on appeal. See Rule 5A:18.

2005). 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.