

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Beales and Senior Judge Annunziata

TERRA FIRMA, LLC

v. Record No. 1494-11-1

ROBERT T. SEXTON

MEMORANDUM OPINION*
PER CURIAM
DECEMBER 13, 2011

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Adam S. Rafal; Lisa L. Thatch; Vandeventer Black LLP, on brief),
for appellant.

No brief for appellee.

Terra Firma, LLC, (employer) appeals the decision of the Workers' Compensation Commission finding that Robert T. Sexton (claimant) suffered a compensable injury as a result of his work on August 19 and 20, 2009. Employer argues claimant's evidence showed that he worked in hot conditions but failed to establish there were unusual or extreme conditions on the days in question.¹ 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 Sexton v. Terra Firma, VWC File No. VA02000002805 (June 28, 2011). We dispense with oral argument and summarily affirm because the facts and legal contentions are

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

¹ We view the evidence on appeal in the light most favorable to "the prevailing party before the commission." Dunnivant v. Newman Tire Co., 51 Va. App. 252, 255, 656 S.E.2d 431, 433 (2008). "Whether an injury arises out of the employment is a mixed question of law and fact and is reviewable by the appellate court." Kjellstrom & Lee, Inc. v. Saunders, 42 Va. App. 673, 677-78, 594 S.E.2d 281, 283 (2004) (quoting Stone v. Keister's Market & Grill, 34 Va. App. 174, 178-79, 538 S.E.2d 364, 366 (2000)).

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.