

COURT OF APPEALS OF VIRGINIA

Present: Judges Bumgardner, Kelsey and Senior Judge Hodges

WASTE MANAGEMENT, INC. AND
GALLAGHER BASSETT SERVICES, INC.

v. Record No. 1545-05-2

ARTHUR W. COLES

MEMORANDUM OPINION*
PER CURIAM
OCTOBER 18, 2005

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Heather K. Bardot; Trichilo, Bancroft, McGavin, Horvath & Judkins, P.C., on brief), for appellants.

(Gregory O. Harbison; Geoffrey R. McDonald & Associates, on brief), for appellee.

Waste Management Inc. and its insurer (hereinafter referred to as "employer") appeal a decision of the Workers' Compensation Commission finding that (1) Arthur W. Coles (claimant) proved that his May 21, 2003 left elbow surgery was causally related to his compensable January 20, 2003 injury by accident; (2) employer failed to prove that claimant was terminated for cause on October 28, 2003; and (3) claimant proved he remained partially disabled, as a result of his January 20, 2003 injury by accident, after leaving his job with employer in October 2003 and that he made reasonable efforts to market his residual work capacity thereafter. 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 Coles v. Waste Management Inc. et. al., VWC File No. 214-67-00 (May 27, 2005). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately

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

presented in the materials before the Court and argument would not aid the decisional process.

See Code § 17.1-403; Rule 5A:27.

Affirmed.