

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Clements and Senior Judge Annunziata

MCQUAY, INC. AND
TRAVELERS INDEMNITY COMPANY
OF AMERICA

v. Record No. 0413-08-3

SCOTT M. WOOD

MEMORANDUM OPINION*
PER CURIAM
JUNE 24, 2008

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Robert M. Himmel; Lucas & Kite, PLC, on brief), for appellants.

(A. Thomas Lane, Jr., on brief), for appellee.

McQuay, Inc. and its insurer (hereinafter referred to as “employer”) appeal a decision of the Workers’ Compensation Commission awarding Scott M. Wood (claimant) temporary total disability benefits beginning October 6, 2006 and continuing. Employer contends no credible evidence supports the commission’s finding that claimant proved ongoing partial disability after November 7, 2006.¹ 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 Wood v. McQuay, Inc., VWC File No. 230-64-65 (Jan. 15, 2008). 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 Employer did not appeal the commission’s finding that claimant proved he sustained a compensable injury by accident arising out of and in the course of his employment on October 6, 2006, and, thus, that issue is not before us. In addition, employer did not include the issue of whether claimant adequately marketed his residual work capacity after November 7, 2006 in its questions presented and, therefore, we will not consider that issue on appeal. See Hillcrest Manor Nursing Home v. Underwood, 35 Va. App. 31, 39 n.4, 542 S.E.2d 785, 789 n.4 (2001) (declined to consider “an issue not expressly stated among the ‘questions presented’”).

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.