

COURT OF APPEALS OF VIRGINIA

Present: Judges Benton, Coleman and Willis

C. R. WOOTEN TRUCKING, INC.  
AND  
OLD REPUBLIC INSURANCE COMPANY

v. Record No. 2225-95-3

DONALD CHAFFIN

MEMORANDUM OPINION\*  
PER CURIAM  
FEBRUARY 27, 1996

FROM THE VIRGINIA WORKERS'  
COMPENSATION COMMISSION

(S. T. Mullins; Street, Street, Street,  
Scott & Bowman, on brief), for appellants.

No brief for appellee.

The sole issue on this appeal is whether the Workers' Compensation Commission erred in finding that Donald Chaffin sustained an injury by accident arising out of his employment on December 9, 1994. Upon reviewing the record and employer's brief, we conclude that this appeal is without merit. Accordingly, we summarily affirm the commission's decision. Rule 5A:27.

"Whether an injury arises out of the employment is a mixed finding of law and fact and is reviewable by the appellate court." Plumb Rite Plumbing Serv. v. Barbour, 8 Va. App. 482, 483, 382 S.E.2d 305, 305 (1989). Factual findings made by the commission will be upheld on appeal if supported by credible evidence. James v. Capital Steel Constr. Co., 8 Va. App. 512,

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\*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

515, 382 S.E.2d 487, 488 (1989). On appeal, we view the evidence in the light most favorable to the prevailing party below. R.G. Moore Bldg. Corp. v. Mullins, 10 Va. App. 211, 212, 390 S.E.2d 788, 788 (1990).

The commission held that the assault perpetrated upon Chaffin during the course of his employment related to the manner in which he performed his duties and, was therefore, directed against him as an employee. In so ruling, the commission found as follows:

[Chaffin's] uncontradicted testimony establishes that at the time of the incident of December 9, 1994, [Chaffin] and Richard Boone, another truck driver, were situated outside the gate on the approach to the Paramount mine. [Chaffin] testified that the truck drivers follow a rule that a driver may pass another upon approaching the entrance to the mine and while still outside the gate. [Chaffin] was following this rule on his way to retrieving a load of coal. Boone became angered when [Chaffin] passed him. The two men had words concerning the passing rule, and then Boone struck [Chaffin].

Chaffin's testimony constitutes credible evidence to support these factual findings. In addition, this credible evidence supports the commission's conclusion that "Boone struck [Chaffin] because he was angered that [Chaffin] had passed him." Thus, the evidence proved that Chaffin's injury was causally connected to the manner in which he performed his work and flowed from his employment as a rational consequence.

Because credible evidence supports the commission's finding that Boone directed the assault against Chaffin as an employee,

we uphold the commission's ruling that Chaffin's injuries arose out of his employment. See Park Oil Co. v. Parham, 1 Va. App. 166, 168, 336 S.E.2d 531, 532 (1985), and Farmers Mfg. Co. v. Warfel, 144 Va. 98, 101-03, 131 S.E. 240, 241 (1926).

For these reasons, we affirm the commission's decision.

Affirmed.