

COURT OF APPEALS OF VIRGINIA

Present: Judge Beales, Senior Judge Fitzpatrick and Retired Judge Hodges*

S.E. SMITH, INC. AND
SOUTHERN PILOT INSURANCE COMPANY

v. Record No. 0091-08-4

BERNARD STATEN,
S.E. SMITH, INC. AND
WEST AMERICAN INSURANCE COMPANY

MEMORANDUM OPINION**
PER CURIAM
MAY 13, 2008

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Joseph C. Veith, III; Trichilo, Bancroft, McGavin, Horvath & Judkins, P.C., on brief), for appellants.

(Andrew S. Kasmer, on brief), for appellee Bernard Staten.

(Daniel E. Lynch; John T. Cornett; Williams & Lynch, on brief), for appellees S.E. Smith, Inc. and West American Insurance Company.

S.E. Smith, Inc. and Southern Pilot Insurance Company appeal a decision of the Workers' Compensation Commission finding that Bernard Staten proved he (1) sustained a new injury by accident arising out of and in the course of his employment on November 18, 2005; (2) his ongoing disability is causally related to his November 18, 2005 compensable injury by accident; and (3) he made a reasonable effort to market his residual work capacity. 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 Staten

* Retired Judge William H. Hodges took part in the consideration of this case by designation pursuant to Code § 17.1-400(C).

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

v. S.E. Smith, Inc., VWC File Nos. 219-31-44 and 226-88-52 (Dec. 11, 2007). 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.