

COURT OF APPEALS OF VIRGINIA

Present: Judges Baker, Willis and Bray
Argued at Norfolk, Virginia

HAYWOOD RIDDICK

v. Record No. 0301-95-1
FRANKLIN CITY PUBLIC WORKS, ET AL.

MEMORANDUM OPINION* BY
JUDGE RICHARD S. BRAY
OCTOBER 31, 1995

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

Richard E. Railey, Jr. (Railey and Railey, on brief),
for appellant.

Robert A. Rapaport (Knight, Dudley, Dezern & Clarke,
P.L.L.C., on brief), for appellees.

Acting on the application of Haywood Riddick (claimant) for disability and medical benefits, the Workers' Compensation Commission (commission) concluded that claimant had failed to prove a "compensable disease" and denied relief. On appeal, claimant contends that the evidence established an "occupational disease which is compensable."

During the pendency of this appeal, a panel of our Court decided Perdue Farms, Inc. v. McCutchan, 21 Va. App. 65, 461 S.E.2d 431 (1995), and revisited in the attendant opinion the definition of "disease" within the intendment of the Workers' Compensation Act. See also Piedmont Mfg. Co. v. East, 17 Va. App. 499, 503, 438 S.E.2d 769, 772 (1993). Because the instant claim was decided without the guidance of that decision, we reverse and remand this case to the commission for reconsideration of claimant's condition as a compensable disease contemplated by Perdue. See Virginia

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

Supermarkets v. George, 18 Va. App. 452, 453, 445 S.E.2d 156, 157 (1994).

In execution of this mandate, the commission shall receive such additional evidence as it deems appropriate. See Washington Metro. Area Transit v. Harrison, 228 Va. 598, 602, 324 S.E.2d 654, 656 (1985).

Reversed and remanded.