

COURT OF APPEALS OF VIRGINIA

Present: Judges Benton, Coleman and Willis

LINDA JULIA MILLER

v. Record No. 0855-95-4

MEMORANDUM OPINION*
PER CURIAM
SEPTEMBER 19, 1995

LAUBSCHER, PRESTA & LAUBSCHER
AND
STATE FARM FIRE & CASUALTY COMPANY

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Robert B. Adams; Ashcraft & Gerel, on brief), for
appellant.

(Ruth N. Carter; Midkiff & Hiner, on brief), for
appellees.

Linda Julia Miller contends that the Workers' Compensation Commission erred in suspending her compensation benefits. Upon reviewing the record and the briefs of the parties, we conclude that this appeal is without merit. Accordingly, we summarily affirm the commission's decision. Rule 5A:27.

On appeal, we view the evidence in the light most favorable to the employer, the prevailing party below. R.G. Moore Bldg. Corp. v. Mullins, 10 Va. App. 211, 212, 390 S.E.2d 788, 788 (1990). Factual findings made by the commission must be upheld by this Court if supported by credible evidence. James v. Capitol Steel Constr. Co., 8 Va. App. 512, 515, 382 S.E.2d 833, 835 (1989).

Miller argues that the record contains no credible evidence

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

that she failed to cooperate with employer's vocational rehabilitation efforts. In granting employer's application seeking to suspend Miller's compensation benefits, the commission found as follows:

We do not find that [Miller] cooperated with rehabilitation efforts. According to the treating physician, Dr. [Khosrow] Matini, [Miller] had the ability to perform sedentary work, including writing with a pencil, pushing buttons, and driving a standard shift automobile. Yet [Miller] has portrayed herself to potential employers as essentially unemployable, thus sabotaging efforts to find employment. It appears from the record that [Miller] was unwilling to attempt even a part-time job allowing her to work on the telephone at home scheduling truck pick-ups.

The commission's findings are supported by Dr. Matini's medical reports and the testimony of the rehabilitation consultant, Patricia Wendy Held. Therefore, those findings are binding and conclusive upon us on appeal. Accordingly, we affirm the commission's decision to suspend benefits until Miller demonstrates a good faith effort to cooperate with rehabilitation efforts.

Affirmed.