

COURT OF APPEALS OF VIRGINIA

Present: Judges Frank, Alston and Senior Judge Coleman

B R D COAL COMPANY AND
LIBERTY MUTUAL INSURANCE COMPANY

v. Record No. 1165-10-3

RUFUS EDWARD BALDWIN

MEMORANDUM OPINION*
PER CURIAM
NOVEMBER 2, 2010

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(John R. Sigmond; Penn, Stuart & Eskridge, on brief), for
appellants.

(John J. Gifford; Browning, Lamie & Gifford, on brief), for appellee.

B R D Coal Company and Liberty Mutual Insurance Company (collectively, “employer,”) appeal a decision of the Workers’ Compensation Commission. Employer contends the commission erred in (1) finding claimant was under an award for permanent total disability benefits; (2) affirming the deputy commissioner’s decision to reform the commission’s June 4, 1990 award to reflect an award for permanent total disability benefits; (3) finding the payment of benefits beyond the expiration of the 500 weeks provided sufficient evidence of employer’s intent to provide an award for permanent total disability benefits; and (4) finding the actions of employer evidenced its intent for the June 4, 1990 agreement to provide an award for permanent total disability benefits. Claimant presented four additional assignments of error. He contends the trial court erred in (1) failing to find the award of permanent total disability benefits was also supported by the doctrine of de facto awards; (2) failing to find the award of permanent total disability benefits was also supported by the doctrine of estoppel; (3) failing to find the award of

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

permanent total disability benefits was also supported by the doctrine of imposition; and (4) concluding claimant failed to preserve his arguments that the doctrines of estoppel, imposition, and de facto awards support the award for permanent total disability benefits.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 Baldwin v. B R D Coal Co., VWC File No. 145-53-24 (Apr. 29, 2010). 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.

¹ While claimant posits four cross assignments of error, only assignment four alleges error. Assignments one, two, and three are alternate arguments supporting the award of permanent total disability and support assignment four. Since we found no error in the commission's award, it is not necessary to address claimant's assignment of error four.