

COURT OF APPEALS OF VIRGINIA

Present: Judges Decker, Malveaux and Senior Judge Annunziata

MARTA RIVAS

v. Record No. 1497-16-4

MOM'S APPLE PIE COMPANY
AND TECHNOLOGY INSURANCE COMPANY

MEMORANDUM OPINION*
PER CURIAM
FEBRUARY 21, 2017

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Thomas F. Hennessy; Virginia Employment and Family Law
Office, on brief), for appellant.

(Andrew H.D. Wilson; Stephen A. Marshall; Two Rivers Law
Group, P.C., on brief), for appellees.

Marta Rivas ("claimant") appeals a decision of the Workers' Compensation Commission ("the Commission") finding that she committed a willful breach of a workplace safety rule. 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 Rivas v. Mom's Apple Pie Co., JCN VA00001074330 (Aug. 12, 2016).¹ We dispense with oral

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

¹ While claimant argues that the Commission erred by applying a negligence standard in assessing whether her violation of a workplace safety rule precluded the recovery of benefits, she failed to raise this argument below and therefore has not preserved it for appeal. See Rule 5A:18. The language from the Commission's opinion which claimant contends reflected application of a negligence standard was a direct quote from the deputy commissioner's opinion. Claimant did not request review of the deputy commissioner's opinion on this basis and did not object to the legal standard applied by the Commission or file a motion to reconsider or a motion for rehearing after the Commission rendered its decision. See Williams v. Gloucester Sheriff's Dep't, 266 Va. 409, 411, 587 S.E.2d 546, 548 (2003) ("the requirement that a litigant file a motion for rehearing or reconsideration to preserve an issue for appeal . . . is not a new requirement"); Hodnett v. Stanco Masonry, Inc., 58 Va. App. 244, 253, 708 S.E.2d 429, 434 (2011) (refusing to consider an issue on appeal when claimant did not file a motion to reconsider).

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.