

COURT OF APPEALS OF VIRGINIA

Present: Judge Elder, Beales and Senior Judge Annunziata

UNINSURED EMPLOYERS' FUND

v. Record No. 1500-11-1

ROBERT T. SEXTON

MEMORANDUM OPINION\*  
PER CURIAM  
DECEMBER 13, 2011

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Robert A. Rapaport; Bonnie P. Lane; Clarke, Dolph, Rapaport, Hull,  
Brunick & Garriott, P.L.C., on brief), for appellant.

No brief for appellee.

Uninsured Employers' Fund (Fund) appeals the decision of the Workers' Compensation Commission finding that Robert T. Sexton (claimant) suffered a compensable injury as a result of his work on August 19 and 20, 2010. Fund argues the commission erred in finding that claimant suffered a compensable injury by accident, that the commission erred in affirming the deputy commissioner's determination that claimant suffered compensable heat exhaustion, and that the commission erred in awarding claimant benefits since claimant failed to establish he was subjected to unusual or extreme working conditions.<sup>1</sup> 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 Sexton v. Terra Firma, VWC File No.

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

<sup>1</sup> We view the evidence on appeal in the light most favorable to "the prevailing party before the commission." Dunnivant v. Newman Tire Co., 51 Va. App. 252, 255, 656 S.E.2d 431, 433 (2008). "Whether an injury arises out of the employment is a mixed question of law and fact and is reviewable by the appellate court." Kjellstrom & Lee, Inc. v. Saunders, 42 Va. App. 673, 677-78, 594 S.E.2d 281, 283 (2004) (quoting Stone v. Keister's Market & Grill, 34 Va. App. 174, 178-79, 538 S.E.2d 364, 366 (2000)).

VA02000002805 (June 28, 2011). 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.