

COURT OF APPEALS OF VIRGINIA

Present: Judges Benton, Humphreys and Retired Judge Duff\*

FRANK VERDEROSA, JR.

MEMORANDUM OPINION\*\*

v. Record No. 1538-01-4

PER CURIAM

OCTOBER 16, 2001

GREENROSE MAINTENANCE, INC. AND  
TRAVELERS INDEMNITY COMPANY OF ILLINOIS

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Frank Verderosa, Jr., pro se, on brief).

(Susan A. Evans; Christine A. McKee-Clark;  
Siciliano, Ellis, Dyer & Boccarosse, on  
brief), for appellees.

Frank Verderosa, Jr. contends that the Workers' Compensation Commission erred in finding that he failed to prove he was entitled to an award of temporary partial disability benefits beginning October 13, 2000. 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. See Rule 5A:27.

In his application and at the hearing before the deputy commissioner, Verderosa sought temporary total disability

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\* Retired Judge Charles H. Duff took part in the consideration of this case by designation pursuant to Code § 17.1-400(D).

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

benefits for the period from March 7, 2000 through October 28, 2000. The deputy commissioner awarded Verderosa medical benefits but ruled that he failed to prove entitlement to temporary total disability benefits for the period between March 7, 2000 and October 28, 2000.

On review, the commission noted that Verderosa made no claim for partial disability benefits. The commission further stated the following:

We further note [Verderosa's] declaration in his written statement that: "I am requesting partial disability from October 13, 2000 to present or until I am rehabilitated or back to normal physical condition." As explained to him on the record by Deputy Commissioner Tabb at the evidentiary hearing, however, this particular claim has not been brought before the Commission yet, and it is not the subject of the present Review. It is [Verderosa's] obligation to file [with the commission] a specific claim for partial disability, and present evidence in support of it.

(Emphasis added).

In his brief on appeal, Verderosa does not challenge the commission's finding that he failed to prove he was entitled to an award of temporary total disability benefits from March 7, 2000 through October 28, 2000. In fact, he concedes that he is "aware that under Virginia law, I am ineligible for total disability." Verderosa's sole contention on appeal is that the commission erred in failing to award him temporary partial disability benefits beginning October 13, 2000. Because the

issue raised on appeal by Verderosa has not been decided by the commission, we will not consider it on appeal. See Green v. Warwick Plumbing & Heating Corp., 5 Va. App. 409, 413, 364 S.E.2d 4, 6 (1988); Rule 5A:18. Accordingly, we affirm the commission's decision.

Affirmed.