

Tuesday 20th

June, 2000.

Vaughan's Landscaping & Maintenance and
Virginia Farm Bureau Fire & Casualty
Insurance Company,

Appellants,

against Record No. 1667-98-4
Claim No. 183-34-74

Timothy Jason Dodson,

Appellee.

Upon a Rehearing En Banc

Before Chief Judge Fitzpatrick, Judges Benton, Coleman, Elder,
Bray, Annunziata, Bumgardner and Senior Judge Overton

Kevin M. Rose (Wharton, Aldhizer & Weaver,
P.L.C., on brief), for appellants.

Jerry O. Talton for appellee.

On June 29, 1999, a panel of this Court reversed the
decision of the Workers' Compensation Commission awarding benefits to
Timothy Jason Dodson. See Vaughan's Landscaping & Maintenance v.
Dodson, 30 Va. App. 135, 515 S.E.2d 800 (1999). We stayed the
mandate of that decision and granted a rehearing en banc, which was
heard on March 30, 2000.

Upon rehearing en banc, the judgment of the commission is
affirmed without opinion by an evenly divided Court. Accordingly,
the opinion previously rendered by a panel of this Court on

June 29, 1999 is withdrawn, and the mandate entered on that date is vacated.

Chief Judge Fitzpatrick, Judges Benton, Elder and Annunziata voted to affirm the judgment of the commission.

Judges Coleman, Bray, Bumgardner and Overton voted to reverse the judgment of the commission.

This order shall be published and certified to the Virginia Workers' Compensation Commission.

A Copy,

Teste:

Clerk