

COURT OF APPEALS OF VIRGINIA

Present: Judges Humphreys, Beales and Retired Judge Fitzpatrick\*

BERNARD L. DINICOLA, JR.

v. Record No. 2726-07-4

TARGET CORPORATION

MEMORANDUM OPINION\*\*  
PER CURIAM  
JULY 22, 2008

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Bernard L. DiNicola, Jr., *pro se*, on briefs).

(Joseph F. Giordano; Anne-Marie K. Zell; Semmes, Bowen & Semmes, on brief), for appellee.

Bernard L. DiNicola, Jr. (claimant) appeals a decision of the Workers' Compensation Commission finding that (1) he failed to prove he was disabled from work as a result of his compensable October 15, 2004 injury by accident; (2) he failed to prove he sustained an injury by accident arising out of and in the course of his employment on December 9, 2005; and (3) the deputy commissioner did not err in failing to strike Target's defenses.<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 DiNicola v. Target, VWC File Nos. 226-72-33 & 226-81-77 (Oct. 11, 2007). We dispense with oral argument and

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\* Judge Fitzpatrick took part in the consideration of this case prior to the effective date of her retirement as senior judge on July 1, 2008 and thereafter by designation pursuant to Code § 17.1-400(D).

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

<sup>1</sup> Claimant's opening brief does not contain any questions presented. Claimant filed a document entitled "Questions to be answered in support of opening brief," which includes forty-three questions. In rendering our decision, we have considered only those issues considered by the commission and preserved for appeal.

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.