

COURT OF APPEALS OF VIRGINIA

Present: Judges Benton, Coleman and Willis

RUTH LIDDELL

v. Record No. 2746-98-4

INOVA FAIRFAX HOSPITAL AND
INOVA HEALTH SYSTEM FOUNDATION, INC.

MEMORANDUM OPINION*

PER CURIAM

MAY 18, 1999

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Ruth Liddell, pro se, on brief).

(William L. Carey; McCandlish & Lillard, on
brief), for appellees.

Ruth Liddell contends that the Workers' Compensation Commission ("commission") erred in finding that she failed to prove that her left shoulder rotator cuff tear was causally related to her compensable September 15, 1996 injury by accident. 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.

On appeal, we view the evidence in the light most favorable to the prevailing party below. See R.G. Moore Bldg. Corp. v. Mullins, 10 Va. App. 211, 212, 390 S.E.2d 788, 788 (1990). Unless we can say as a matter of law that claimant's evidence sustained

*Pursuant to Code § 17.1-413, recodifying Code § 17-116.010, this opinion is not designated for publication.

her burden of proof, the commission's findings are binding and conclusive upon us. See Tomko v. Michael's Plastering. Co., 210 Va. 697, 699, 173 S.E.2d 833, 835 (1970).

In finding that Liddell failed to prove that her left rotator cuff tear was causally related to the September 15, 1996 injury by accident, the commission found as follows:

We . . . are unwilling to infer causation under the facts of this case. Liddell admitted that she suffered from significant pre-existing shoulder problems. On September 30, 1996, Dr. [Robert] Stinger indicated that [Liddell's] work injury had resolved. [Liddell's] rotator cuff tears were not diagnosed until March 1997. At that time, Liddell was diagnosed with a rotator cuff tear of the right shoulder as well as the left shoulder, even though there is no evidence that the right shoulder was injured at the time of her industrial accident. Under these facts, we can only speculate whether the claimant's left rotator cuff tear was caused by the work accident

The commission's findings are amply supported by the record. Based upon the lack of any persuasive medical evidence to connect Liddell's left shoulder rotator cuff tear with her compensable work injury, we cannot say as a matter of law that her evidence sustained her burden of proving causation.

For these reasons, we affirm the commission's decision.

Affirmed.