

COURT OF APPEALS OF VIRGINIA

Present: Judges Kelsey, Petty and Senior Judge Bumgardner

JAMES MELVIN ASHBY

v. Record No. 0731-07-3

RAMAR COAL COMPANY, INC. AND
LIBERTY MUTUAL INSURANCE COMPANY

MEMORANDUM OPINION*
PER CURIAM
JULY 31, 2007

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Steven R. Minor; Elliott Lawson & Minor, on brief), for appellant.

(Brian J. Rife; Penn, Stuart & Eskridge, on brief), for appellees.

James Melvin Ashby (claimant) appeals a decision of the Workers' Compensation Commission finding that it had no jurisdiction to consider his claim for benefits alleging an injury by accident arising out of and in the course of his employment on April 2, 1994. Claimant argues the commission erred in finding that he failed to establish grounds for applying the doctrine of imposition to toll the statute of limitations contained in Code § 65.2-601. We have reviewed the record and the commission's opinion and find that this appeal is without merit. See Cibula v. Allied Fibers & Plastics, 14 Va. App. 319, 324, 416 S.E.2d 708, 711 (1992) ("An employer's voluntary payment of an injured employee's medical bills does not estop the employer from invoking the statute of limitations of Code § 65.1-87 (now Code § 65.2-601)."), aff'd, 245 Va. 337, 428 S.E.2d 905 (1993) (per curiam); Tuck v. Goodyear Tire & Rubber Co., 47 Va. App. 276, 285, 623 S.E.2d 433, 437 (2005) ("The application of the [imposition] doctrine, however, requires a threshold showing of unfairness: 'The doctrine focuses on an

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

employer's or the commission's use of superior knowledge of or experience with the Workers' Compensation Act or use of economic leverage, which results in an unjust deprivation to the employee of benefits warranted under the Act.'" (citation omitted)). Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Ashby v. Ramar Coal Co., Inc., VWC File No. 168-33-22 (Mar. 1, 2007). 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.