UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1444

September Term, 2015

WILLIAM H. WHARTON, JR.

v.

FLEET CAR LEASE, INC. d/b/a
FLEET CAR CARRIERS

Krauser, C.J.,
Nazarian,
Eyler, James R.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: June 20, 2016

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

William H. Wharton, Jr., appellant, appeals from a decision denying his claim for workers' compensation. The Maryland Workers' Compensation Commission determined that Wharton was not entitled to compensation because he was not a "covered employee." Under § 9-218 of the Labor & Employment Article (Md. Code, 2008), the owner-operator of a "Class F (tractor) vehicle" working as an independent contractor pursuant to a written lease agreement, "where there is no intent to create an employer-employee relationship" and "the individual is paid rental compensation," is not a "covered employee" for the purposes of workers' compensation. The Commission determined that Wharton, the owner and operator of a "Class F (tractor) vehicle," was working pursuant to a written lease agreement, not as an employee of appellee Fleet Car Lease, Inc., but as an independent contractor. Wharton sought judicial review of that determination in the circuit court. The circuit court granted appellees' motion for summary judgment, prompting Wharton to file this appeal. After thoroughly reviewing the record and applicable law, we affirm.

Wharton contends that he did not fall within the "covered employees" exemption set forth in Labor & Employment, § 9-218 because, although working as an independent contractor, he was "not paid rental compensation" as required under the statute. The contention has no merit. Pursuant to the express terms of his written lease agreement with appellee Fleet Car Lease, Inc.,Wharton was paid "compensation" for "use of" his tractor trailer vehicles and for his service as the driver of the vehicle. We are satisfied that the compensation Wharton received was within the spirit, if not the letter, of "rent" as that undefined term is used in the statute. Moreover, Wharton does not dispute that he was

acting, pursuant to a written lease agreement with appellee Fleet, as an independent contractor for federal tax purposes. Accordingly, we hold that the circuit court did not err in granting summary judgment in appellees' favor on the ground that he was not a "covered employee."

Wharton's assertion that the Commission erred in rescinding an initial finding that he was entitled to workers' compensation also has no merit. *See* Labor & Employment, § 9-736(b)(1)&(2) (The "Commission has continuing powers and jurisdiction over each claim under this title" and the "Commission may modify any finding or order as the Commission considers justified.").

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.