



**In the Missouri Court of Appeals
Eastern District
DIVISION FOUR**

CHERYL WILSON,)	
)	ED91001
Claimant/Appellant,)	
)	Appeal from the Decision of
v.)	the Labor and Industrial
)	Relations Commission
Q STOP III,)	
)	
Employer/Respondent,)	
)	
AND)	
)	Filed: November 4, 2008
DIVISION OF EMPLOYMENT SECURITY,)	
)	
Respondent.)	

OPINION SUMMARY

Cheryl Wilson appeals the decision of the Labor and Industrial Relations Commission denying her unemployment benefits after she allegedly told a manager that she would call in sick if management refused her request for two hours' leave to take her child to a doctor's appointment. Wilson alleges two points of error: (1) that the Commission's decision is not supported by substantial competent evidence because her alleged statement was hearsay, and (2) even if the evidence is deemed substantial and competent, the statement does not rise to the level of misconduct warranting disqualification from benefits.

REVERSED AND REMANDED.

Division Four Holds: (1) Wilson's alleged statement, which was introduced at the hearing by another manager, was hearsay and is not competent and substantial evidence supporting the Commission's decision. (2) A similar statement that Wilson made to a co-worker, regarding calling in sick on a different date in the future, does not rise to the level of misconduct as contemplated by section 288.030.1(23) and as interpreted by case law.

Opinion by: Booker T. Shaw, J.

Kathianne Knaup Crane, J. and Mary K. Hoff, J. concur.