



**In the Missouri Court of Appeals
Eastern District
DIVISION TWO
OPINION SUMMARY**

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|------------------------------|---|--------------------------------------|
| JAMES SARTORI, |) | No. ED91307 |
| |) | |
| Appellant, |) | Appeal from the Labor and Industrial |
| |) | Relations Commission |
| vs. |) | |
| |) | Cause No. 07-19723 R-A |
| |) | |
| |) | |
| KOHNER PROPERTIES, INC., AND |) | |
| DIVISION OF EMPLOYMENT |) | |
| SECURITY, |) | |
| |) | Filed: March 10, 2009 |
| Respondents. |) | |
| |) | |

James Sartori (hereinafter “Claimant”) appeals from the decision of the Labor and Industrial Relations Commission (hereinafter, “the Commission”) finding he voluntarily left his employment without good cause and disqualifying him from receiving unemployment benefits. Claimant raises two issues on appeal. First, Claimant argues the Commission erred in denying him benefits in that he met his burden of proving he did not leave work voluntarily, but rather, was discharged per Kohner Properties, Inc.’s (hereinafter, “Employer”) previously stated intent to terminate him. Second, Claimant argues the Commission failed to consider all material evidence as submitted pursuant to Section 288.200.1 RSMo (2000).

AFFIRMED.

Division II Holds: Employee failed to carry his burden of proof demonstrating that he was discharged in that the Commission made a credibility determination in favor of Employers’ witnesses who testified Employee would not be discharged after receiving a poor evaluation. Further, the Commission did not err in failing to consider Employee’s written evaluation in that such evaluation was not admitted as an exhibit at the Appeals Tribunal hearing, and the contents of the evaluation were cumulative of Employee’s testimony at the hearing.

Opinion by: George W. Draper III, J.

Roy L. Richter, P.J., and
Lawrence E. Mooney, J.,
concur

Attorneys for Appellant: John J. Ammann

Attorney for Respondents: Kevin J. Lorenz
Amy R. Brown

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IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND
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