

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

ORLANDO STEWART,	)	No. ED92371
	)	
Claimant/Respondent,	)	
	)	
vs.	)	Appeal from the Labor and
	)	Industrial Relations Commission
DUKE MANUFACTURING, INC. CO.,	)	Appeal No. 08-14686
	)	
Employer/Appellant,	)	
and	)	
	)	
DIVISION OF EMPLOYMENT SERVICES,	)	
	)	
Respondent.	)	Filed: August 18, 2009

Duke Manufacturing appeals the decision of the Labor and Industrial Relations Commission that Orlando Stewart was not disqualified from receiving unemployment benefits.

REVERSED.

Division Five Holds: The Labor and Industrial Relations Commission erred by finding that the drug test did not follow the procedures of the Department of Transportation and subsequently that Orlando Stewart's employment was not terminated due to misconduct. The Commission's decision was not based on substantial and competent evidence.

Opinion by: Kenneth M. Romines, C.J.  
Clifford H. Ahrens, J. and Roy L. Richter, J., concur.

Attorneys for Appellant: Stanley G Schroeder, Corey L. Franklin, Whitney D. Pile

Attorney for Respondent: Shelly A. Kintzel

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
---