

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

|                                 |   |                                 |
|---------------------------------|---|---------------------------------|
| MATTHEW W. MILLER, Appellant,   | ) | No. ED93897                     |
|                                 | ) |                                 |
| vs.                             | ) | Appeal from the Labor and       |
|                                 | ) | Industrial Relations Commission |
| REHNQUIST DESIGN & BUILD, INC., | ) |                                 |
| and DIVISION OF EMPLOYMENT      | ) | Filed:                          |
| SECURITY, Respondents.          | ) | May 25, 2010                    |

Matthew W. Miller ("Claimant") appeals from the decision of the Labor and Industrial Relations Commission ("the Commission") affirming the decision of the Appeals Tribunal dismissing Claimant's appeal for failure to appear at the hearing. Claimant asserts the Commission erred in dismissing Claimant's appeal because Claimant provided a *prima facie* showing of good cause for failing to appear.

REVERSED AND REMANDED.

Division Two holds: Claimant established he had good cause for failing to appear at the hearing because he had a good faith belief that the Appeals Tribunal had his telephone number on record and that belief was reasonable under all the circumstances. Thus, the Commission abused its discretion in affirming the dismissal of Claimant's appeal because he established good cause for failing to appear at the hearing.

Opinion by: Robert G. Dowd, Jr., J.  
Sherri B. Sullivan, P.J. and Patricia L. Cohen, J., concur.

Attorney for Appellant:

Gerald W. Linnenbringer

Respondent Rehnquist Design  
& Build acting Pro Se

Attorney for Respondent  
Division of Employment Security

Larry R. Ruhmann

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