

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

SAMANTHA JENKINS, Appellant,) No. ED94611
v.) Appeal from the Labor and
GEORGE GIPSON ENTERPRISES, LLC) Industrial Relations Commission
AND DIVISION OF EMPLOYMENT) Case No. 09-32853 R-A
SECURITY, Respondents.) FILED: December 14, 2010

OPINION SUMMARY

Samantha Jenkins (hereinafter, “Claimant”) appeals the decision of the Labor and Industrial Relations Commission (hereinafter, “the Commission”), denying her unemployment compensation benefits. Claimant alleges the Commission erred in finding she committed misconduct because the Commission’s decision was not based on competent and substantial evidence pursuant to Section 288.210 RSMo (2000)¹. Essentially, Claimant asserts Employer failed to establish misconduct because the only evidence to support misconduct was hearsay testimony, and hearsay alone cannot constitute competent and substantial evidence.

REVERSED AND REMANDED.

DIVISION II HOLDS: The Commission erred in finding Claimant committed misconduct because the Commission’s decision was not based on competent and substantial evidence pursuant to Section 288.210. Employer failed to meet its burden of showing by a preponderance of the evidence that Claimant was discharged due to misconduct related to work in that Employer only offered hearsay evidence of Claimant’s misconduct. Claimant is not disqualified under Section 288.050.2 from receiving unemployment benefits.

Opinion by: George W. Draper III, J.

Glenn A. Norton, P.J., and Kathianne Knaup Crane, J., concur.

Attorneys for Appellant: John Ammann

Attorneys for Respondent: George Gibson Enterprises *pro se* Michael Pritchett

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.

¹ All statutory references are to RSMo (2000) unless otherwise indicated.