

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

NATHAN NEVETTIE, Claimant/Appellant,)	No. ED95100
v.)	Appeal from the Labor and
WAL-MART ASSOCIATES, INC., Employer,)	Industrial Relations Commission
and)	Date: February 22, 2011
DIVISION OF EMPLOYMENT SECURITY,)	
Respondent/Respondent.)	

Claimant, Nathan Nevettie, appeals from the Order of Labor and Industrial Relations Commission, with one member dissenting, affirming the decision of the Appeals Tribunal of the Division of the Employment Security finding claimant disqualified for unemployment benefits.

REVERSED AND REMANDED.

Division Two Holds:

1. The evidence does not support a determination that claimant's rude comment to a co-employee and subsequent disgusting gesture were the result of anything more than simple lack of judgment.
2. The evidence does not establish that claimant intentionally disregarded the standards of behavior that employer had the right to expect.

Opinion by: Kathianne Knaup Crane, J.
Glenn A. Norton, P.J. and George W. Draper III, J., concur.

Attorney for Appellant: Grant R. Doty

Attorney for Respondent: Shelly A. Kintzel

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