

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

TIFFANIE WHEELER,)	
)	No. ED99928
Claimant,)	
v.)	
)	
PINNACLE AUTOMOTIVE)	Appeal from the Labor and
PROTECTION, INC.,)	Industrial Relations Commission
)	
Employer/Appellant,)	
)	
and)	
)	
DIVISION OF EMPLOYMENT)	
SECURITY,)	Filed: November 19, 2013
)	
Respondent.)	

Pinnacle Automotive Protection, Inc. (Employer) appeals from the Labor and Industrial Relations Commission’s (Commission) decision finding Tiffanie Wheeler (Employee) was not disqualified from unemployment benefits.

On appeal, Employer argues the Commission erred in finding Employee was not disqualified from receiving unemployment benefits because the Commission incorrectly found that Employee was discharged when she voluntarily quit her position without good cause attributable to the work or Employer; failed to shift the burden of proof to Employee because Employee’s alleged discharge was the result of a violation of Employer’s attendance policy; failed to consider whether Employee’s alleged misconduct was negligent; and the Commission’s award is not supported by competent and substantial evidence and is contrary to the overwhelming weight of the evidence.

AFFIRMED

Division Two Holds: The Commission’s findings that Employee was not disqualified from receiving unemployment benefits because she was discharged by Employer, and such violation was not willful or intentional, are supported by competent and substantial evidence in the record. Employer’s arguments that the Commission failed to shift the burden of proof and consider whether Employee’s misconduct was negligent are waived for failing to raise the issues before the Commission.

Opinion by: Sherri B. Sullivan, J. Lawrence E. Mooney, P.J., and Robert G. Dowd, Jr., J., concur.

Attorney for Appellant: Matthew S. McBride
Attorney for Respondent: Sara H. Harrison

<p>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.</p>
