

No. ED 87889

**IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT**

**ANDREA WILLIAMS,
Appellant,**

v.

**CENTRAL MISSOURI PIZZA, INC.,
and DIVISION OF EMPLOYMENT SECURITY,
Respondents**

**APPEAL FROM THE LABOR AND INDUSTRIAL
RELATIONS COMMISSION**

REPLY BRIEF OF APPELLANT

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TABLE OF CASES, STATUTES AND OTHIS AUTHORITIES

I. STATUTES

Section 288.030.1(24), RSMo Cum.Supp. 2005, p. 4

ARGUMENT

1. The respondent's Statement of Facts contains information regarding the December 27, 2005, phone call that is not supported in any documentation provided by any parties (Appendix A1 through A10). Appellant did not call to report her late arrival on December 28, 2005, because of car trouble. Appellant called to obtain her work schedule for December 28, 2005.

2. The Appellant did notify her employer on numerous occasions of her expected absence on December 24, 2005. The employer did not inform the appellant that her absence would result in termination of her employment. Therefore, the appellant did not violate RSMo 288.030.1 by "an act of wanton or willful disregard of the employer's interest." She had the interest of the employer in mind when she had the numerous conversations with her supervisor regarding December 24, 2005.

3. The employer's response to the unemployment claim (Appendix A5) does not state the shift was a mandatory requirement only that the appellant did not show up for her shift. This is a contradiction to the respondent's claim that the manager specifically instructed the appellant that it was mandatory that she be present. Again, this supports the appellant's Point II.

CONCLUSION

The Decision of the Labor and Industrial Relations Commission of Missouri, is not supported by competent and substantial evidence on the record as a whole and is not correct as a matter of law. Therefore, those findings are not conclusive and the Decision should not be affirmed by this Court.

In conclusion, the Appellant urges this Court to reverse and remand the decision of the Labor and Industrial Relations Commission and hold that there has not been a proper implementation of the law, and that the Commission could not have reasonably made its findings and reached its result.

Respectfully submitted,

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APPELLANT

PROOF OF SERVICE

I, Andrea Williams, Appellant certify that one (1) copy of the foregoing Appellant's reply and one copy of the computer disk were mailed postage pre-paid to:

Missouri Department of Labor and Industrial Relations
Division of Employment Security
421 East Dunklin, P.O. Box 59
Jefferson City, Missouri 65104
(573) 751-3844
(573) 751-2947 (fax)

Central Missouri Pizza, Inc.
201 Chesterfield Business Parkway
Chesterfield, MO 63005

This ____ day of August, 2006.

ANDREA WILLIAMS
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APPELLANT

**CERTIFICATE OF WORD COUNT
AND VIRUS FREE DISK**

I hereby certify the following:

1. The foregoing brief has been prepared in Microsoft Word 2000, 13 font, Times New Roman.
2. The foregoing brief complies with the word count limitations contained in Supreme Court Rule 84.06(b).
3. The foregoing brief contains 631 words; and complies with the limitations contained in Rule 84.06(b).
4. The enclosed diskette containing the brief has been scanned for viruses and is virus free.

This ___ day of August, 2006.

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