OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

LEON BONE,	)	ED108470
	)	
Respondent,	)	Appeal from the Labor and Industrial
	)	Relations Commission
v.	)	#2055498
	)	
MACZUK FARMS TRUCKING, LLC,	)	Filed: January 19, 2021
	)	
Appellant,	)	
	)	
and	)	
	)	
DIVISION OF EMPLOYMENT SECURITY,	)	
	)	
Respondent.	)	

Maczuk Farms Trucking, LLC (Appellant) appeals from the decision of the Labor and Industrial Relations Commission (Commission), which adopted the findings and conclusions of the Division of Employment Security's Appeals Tribunal (Appeals Tribunal). The decision concluded that Leon Bone (Claimant) did not quit work but was discharged.

REVERSED.

Division 2 holds: Simply characterizing a party an independent contractor or employee does not make it so; rather, a court must make a factual determination of independent contractor or employee status. See Sakabu v. Regency Const. Co., 392 S.W.3d 494, 499 (Mo. App. E.D. 2012). Even though Appellant had the burden to prove that Claimant was an independent contractor as alleged, the Appeals Tribunal and Commission attempted to prevent Appellant from doing so and ignored the facts on determining Claimant's status. We find the Commission erred in assuming Claimant's employment status and Claimant could not meet the statutory requirements for an employee to show he was entitled to unemployment benefits. Furthermore, the Commission erred in ignoring substantial and competent evidence proving Claimant was an independent contractor. Appellant's first and second points are granted and are dispositive of this appeal.

Opinion by: Lisa P. Page, J.

Robin Ransom, P.J. and Sherri B. Sullivan, J., concur.

Attorney for Appellant: William P. Nacy

Attorney for Respondent Leon Bone: *Pro se*

Attorney for Respondent Department of Labor and Industrial Relations: Bart A. Matanic

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.