

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**BEVERLY WILSON,
APPELLANT
vs.**

**DIVISION OF EMPLOYMENT SECURITY,
RESPONDENT**

DOCKET NUMBER WD73746

DATE: JANUARY 24, 2011

Appeal from:

Labor and Industrial Relations Commission

Appellate Judges:

Division Four: Lisa White Hardwick, C.J., Joseph M. Ellis and Thomas H. Newton, JJ.

Attorneys:

Beverly Wilson, Appellant Pro-se

Ninion S. Riley, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BEVERLY WILSON, APPELLANT

v.

DIVISION OF EMPLOYMENT SECURITY, RESPONDENT

WD73746

Labor and Industrial Relations

Before Division Four Judges: Lisa White Hardwick, C.J., Joseph M. Ellis, and Thomas H. Newton, JJ.

Appellant Beverly Wilson appeals from an order issued by the Industrial Labor and Relations Commission ("the Commission") affirming the Appeals Tribunal's dismissal of her appeal from a Division of Employment Security deputy's decision to decrease her unemployment benefits by the amount of pension she receives. The Appeals Tribunal dismissed Appellant's case after she failed to appear by telephone for her scheduled hearing.

REVERSED AND REMANDED

Division Four holds:

- (1) The Commission abused its discretion by acting in excess of its statutory authority when it affirmed the dismissal of Appellant's appeal for her failure to appear because the Commission had no authority to affirm the dismissal of Appellant's appeal, which was dismissed in reliance on a definition of "appear" inconsistent with the Division's prescribed regulations at the time of Appellant's hearing.

Opinion by Joseph M. Ellis, Judge

Date: January 31, 2012

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