

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

**WILLIAM J HARTLEY**  
**903 E MAIN ST**  
**MARSHALLTOWN IA 50158-2134**

**SPEEDCO INC**  
**SPEEDCO TRUCK LUBE**  
**73 W PARK ST**  
**PO BOX 520**  
**CAYUGA IN 47928**

**Appeal Number: 06A-UI-03303-JTT**  
**OC: 02/26/06 R: 02**  
**Claimant: Respondent (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit  
871 IAC 24.26(4) – Intolerable or Detrimental Working Conditions

STATEMENT OF THE CASE:

Speedco Truck Lube filed a timely appeal from the March 17, 2006, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on April 10, 2006. Claimant William Hartley participated. Manager Scott Knoll represented the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: William Hartley was employed by Speedco Truck Lube as a full-time technician from September 29, 2005 until November 6, 2005, when he quit. The final incident that prompted Mr. Hartley's quit occurred on November 6. Mr. Hartley was performing his duties when Assistant Manager Chris McCammant entered the bay area and asked Mr. Hartley, "What the fuck are you doing?"

Mr. McCamnant was expressing a concern about the rate at which Mr. Hartley was completing his work. Mr. Hartley did not reply to Mr. McCamnant's question. Mr. Hartley believed he was appropriately performing his duties. One week prior to this incident, Mr. McCamnant had instructed Mr. Hartley that he would need to cover a tattoo of the confederate flag and "American by birth" on his forearm. Mr. McCamnant referred to Mr. Hartley as a redneck and/or racist at the time he instructed him to cover the tattoo. Mr. Hartley had previously worked with the tattoo uncovered without incident. Though the employer has a policy regarding offensive tattoos and body art being covered, the policy is only selectively enforced. After Mr. Hartley spent a week in jail in the middle of October on charges that were then dismissed, Mr. McCamnant told Mr. Hartley, "So you're a convict now."

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Hartley's voluntary quit was for good cause attributable to the employer. It does.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993). Just as employers have the right to expect civility from employees, employees have the right to expect civility from an employer. See Henecke v. Iowa Department of Job Service, 533 N.W.2d 573 (Iowa App. 1995). The evidence indicates that Mr. Hartley quit the employment in response to the repeated offensive conduct and comments the assistant manager directed toward him. A reasonable person would have found this working condition intolerable and would have been prompted to quit the employment.

The evidence in the record indicates that Mr. Hartley's voluntary quit was for good cause attributable to the employer. Accordingly, Mr. Hartley is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Hartley.

DECISION:

The Agency representative's decision dated March 17, 2006, reference 02, is affirmed. The claimant quit the employment for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

jt/kkf