

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DOUGLAS R WHITE
Claimant

APPEAL NO. 07A-UI-00388-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**A-1 QUALITY TIRE & CAR CARE
SERVICE INC**
Employer

**OC: 12/03/06 R: 04
Claimant: Appellant (1)**

Section 06.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Douglas White filed an appeal from a representative's decision dated January 8, 2007, reference 01, which denied benefits based on his separation from A-1 Quality Tire & Car Care Service, Inc. (A-1). After due notice was issued, a hearing was held by telephone on January 29, 2007. Mr. White participated personally. The employer participated by Connie Wiemer, Owner; Joe Morrow, Body Shop Laborer; and Kevin Feik, Body Shop Manager.

ISSUE:

At issue in this matter is whether Mr. White was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. White was employed by A-1 from May 15 until October 18, 2006 as a full-time auto body repairman. He quit the employment because he did not like the work environment. He specifically objected to the fact that Joe Morrow spit and threw cigarette butts on the floor. Workers would sometimes spit on the floor if they got dust or other work-related debris in their mouths. Mr. White is a non-smoker. On the occasions when he swept the shop, he had to sweep cigarette butts left by others.

The employer held a meeting on October 19 to address Mr. White's issues. It was decided that he would be moved to a work location on the other side of the building from where Mr. Morrow worked. The employer had previously indicated to Mr. White that Mr. Morrow would be discharged. When it became apparent during the meeting of October 19 that Mr. Morrow was not going to be fired, Mr. White quit. Continued work would have been available if Mr. White had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. White quit because his coworker, Mr. Morrow, spit and threw cigarette butts on the floor. The administrative law judge appreciates that Mr. White does not smoke. However, sweeping up cigarette butts was not any different than sweeping up other trash on the shop floor. The administrative law judge also appreciates that having others spit on the floor was not a pleasant experience. However, their reasons for doing so had to do with the fact that dust from performing auto body work sometimes gets in the mouth. It was unreasonable to expect employees to stop what they were doing and go either outside or to the restroom to spit the dust out. Moreover, the employer planned to move Mr. White to the other side of the building so that he would be away from Mr. Morrow.

The administrative law judge concludes that the employer made a good-faith effort to try to address the matter that was causing Mr. White to quit. He quit without waiting to see if the solution proposed by the employer would eliminate the problem. For the reasons stated herein, the administrative law judge concludes that the quit was not for good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated January 8, 2007, reference 01, is hereby affirmed. Mr. White voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css