

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN H HAAG
Claimant

APPEAL NO. 07A-UI-07958-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAR CITY INC
Employer

**OC: 07/15/07 R: 02
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Car City, Inc. (employer) appealed a representative's August 9, 2007 decision (reference 01) that concluded John H. Haag (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on September 12, 2007. The claimant participated in the hearing. The employer did not appear for the hearing even though the employer requested the in-person hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in February 2006. The claimant worked as a full-time mechanic. John Reynolds, the shop supervisor, supervised the claimant.

When the claimant started working, the employer had two auto body mechanics. The employer did not have a paint booth and they painted cars in the shop. The claimant did not like cars spray painted in the shop, but he continued his employment. During the course of his employment, the employer increased the number of auto body mechanics to nine. The employer did not have a paint booth until February 2007. The auto body mechanics continued spray painting cars in the shop. No one had respirators. As a result of spray painting cars in the shop, the claimant developed headaches, had problems breathing, and at times became nauseous at work. The claimant thought that once the paint booth was installed, the employer would no longer spray paint vehicles in the shop.

The paint booth was not large enough to accommodate all the spray painting the employer did. As a result, the employer still had auto body mechanics spray paint vehicles in the shop. The

claimant talked to his supervisor about painting in the shop. Although the supervisor experienced the same problems as the claimant, he had no control over this situation.

In mid-May the claimant gave the employer his 30-day notice that he was resigning. The claimant resigned because the employer spray painted vehicle in the shop, which created health issues for the claimant. In late May the owner talked to the claimant and asked what it would take to keep him employed. When the claimant told him the employer he would stay if spray painting vehicles in the shop stopped, the employer indicated this was not possible because the employer needed to do this to get all the work done. The employer even offered the claimant a significant raise. The claimant's last day of work was June 14, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1-a. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive unemployment insurance benefits. Iowa Code § 96.6-2. The claimant voluntarily quit his employment.

The law presumes a claimant quit his employment with good cause when he leaves because of detrimental or intolerable working conditions. 871 IAC 24.26(4). The employer's repeated practice of spray painting vehicles in the shop, instead of a paint booth, resulted in detrimental working conditions. The claimant established he quit his employment for reasons that qualify him to receive unemployment insurance benefits. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 9, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits. As of July 15, 2007, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw