

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES ROSS**  
Claimant

**APPEAL NO: 10A-UI-07375-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OPERATION NEW VIEW**  
Employer

**OC: 04-18-10**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 11, 2010, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 9, 2010. The claimant participated in the hearing. Joy Davis, Administrative Assistant/Human Resources Director and Peggy Hanniford, Early Childhood Programs Director, participated in the hearing on behalf of the employer. Employer's Exhibits One through Four were admitted into evidence.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time transportation aide for the Head Start Program for Operation New View from September 28, 2009 to April 14, 2010. He worked with three and four-year-old children. The claimant submitted a letter of resignation April 14, 2010, effective immediately (Employer's Exhibit One). He worked between the employer's Locust Street Center and the Holy Ghost Center. The claimant had a difficult relationship with the teacher and teacher's aide at the Locust Street Center. His resignation letter indicated, "I can no longer accept the attitude of contempt that I receive daily from Barb and Kari (Employer's Exhibit One). He testified they made comments such as, "I bet someone else could do a better job than you. You are a horrible transportation aide" and made the statements in front of the children. They also told the children, "Keep an eye on Jim on the bus to make sure he is doing his job properly" (Employer's Exhibit One). The claimant asked Barb and Kari what he could do to improve his job performance but never received any constructive responses from them. He made several complaints to Supervisor Brenda Sullivan but his treatment never improved. During April 2010 the claimant participated in a fast through his church where he was only allowed to eat fresh fruits and vegetables for the month. He had been asked by Barb and Kari to eat with the children and when he told them about the fast and that he did not want to eat with the children during the fast, which was not part of his job description anyway, they told him he had to eat

with the children and eat what they were eating while Barb and Kari ate at their desks. They indicated there could be no compromise and the claimant could not eat his own food with the children rather than that provided by the center. He was extremely frustrated and went to Ms. Sullivan but she said there was nothing she could do until the claimant said he might go over her head to Early Childhood Programs Director Peggy Hanniford. At that point Ms. Sullivan said she would take care of the situation but there were no changes between that time and April 14, 2010, when he submitted his resignation. He was also told by a bus driver that Barb and Kari were “bound and determined” to get the claimant to quit or be fired.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

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 means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. While it is difficult to imagine that Barb and Kari made disparaging remarks about the claimant in a non-joking manner to three and four-year-old children, the claimant's testimony about the situation regarding his religious fast was credible. Although the employer's witnesses that participated in the hearing were unaware of that situation and the administrative law judge believes they would not have allowed it to continue if they knew about it, the fact remains that Barb and Kari, even knowing it was a religious fast, failed to make simple allowances so the claimant could take part in the fast and it appears they did so out of vindictiveness and cruelty rather than for any legitimate reason. Similarly, the claimant complained to Ms. Sullivan about the situation and she denied anything could be done about it until he threatened to go to Ms. Hanniford but still no action was taken in his favor. Because of the claimant's treatment by Barb and Kari, especially with regard to his religious fast, the administrative law judge concludes the claimant has demonstrated that the working conditions were intolerable and detrimental to him and consequently his leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The May 11, 2010, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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