

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**NIKOLAS J BRANDT**  
Claimant

**APPEAL NO. 21A-UI-07333-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**YE OLD STRIPPERY CORP**  
Employer

**OC: 11/29/20**  
**Claimant: Respondent (2)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.3(7) – Overpayment  
Public Law 116-136, Section 2104 – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 2 2021, reference 01, decision that allowed benefits to the claimant, provided the claimant was otherwise eligible, and that held the employer's account could be charged, based on the deputy's conclusion that the claimant was laid off effective November 20, 2020 due to a lack of work. After due notice was issued, a hearing was held on May 20, 2021. The claimant, Nikolas Brandt, participated. Randall Tansey represented the employer. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether the claimant was laid off.  
Whether the claimant voluntary quit without good cause attributable to the employer.  
Whether the claimant was overpaid regular benefits.  
Whether the claimant must repay benefits.  
Whether the employer's account may be charged.  
Whether the claimant was overpaid Federal Pandemic Unemployment Compensation benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Nikolas Brandt, was employed by Ye Olde Stripperry Corporation, a furniture refinishing business, as a part-time laborer from 2017 until November 20, 2020. Randall Tansey is President of the company and was Mr. Brandt's supervisor. The employer did not post a work schedule and instead allowed the claimant to determine his own work hours. Mr. Brandt generally elected to work minimal hours each week. Mr. Brandt often asserted he could not report for work or had to leave work because of a stomach ailment. Mr. Tansey thought Mr. Brandt did quality work.

On November 20, 2020, Mr. Brandt arrive for work at 10:00 a.m. On that day, Mr. Brandt was to refinish a table, which included refinishing a main table top, table leaves and table legs.

Mr. Tansey had other projects waiting and stepped in to assist with the table top to move the project along. After Mr. Tansey stepped in to assist, Mr. Brandt disappeared. Mr. Tansey subsequently discovered that Mr. Brandt had left the workplace without completed the project. In other words, Mr. Brandt had walked off the job. Mr. Brandt had documented a 10:45 a.m. departure on his timecard before he departed. Mr. Brandt had not said anything to Mr. Tansey about needing to leave. Mr. Tansey had not instructed Mr. Brandt to leave. Mr. Tansey had enough projects lined up to keep himself, Mr. Brandt and one or more other employees busy. Mr. Tansey had recently hired a new employee to assist with projects in light of Mr. Brandt's election to work minimal hours. After Mr. Brandt departed on November 20, 2020, he did not return and did not make further contact with the employer. Mr. Tansey was surprised a couple weeks later when he received notice of an unemployment insurance claim.

Mr. Brandt established an original claim for benefits that was effective November 29, 2020. This employer is the sole base period employer. The claimant has no other employment and no other source of income while he worked for this employer. Iowa Workforce Development set the weekly benefit amount at \$120.00. IWD paid the claimant \$2,880.00 in regular benefits for the 24 weeks between November 29, 2020 and May 15, 2021. IWD also paid the claimant \$5,000.00 in Federal Pandemic Unemployment Compensation for 20 weeks between December 27, 2020 and May 15, 2021.

In February 2021, an Iowa Workforce Development representative contacted both parties for the purpose of conducting a cold-call fact-finding interview. Mr. Tansey represented the employer and provided a verbal statement.

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

Iowa Administrative Code rule 871-24.1(113) characterizes the different types of employment separations as follows:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

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).

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(27) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(27) The claimant left rather than perform the assigned work as instructed.

The weight of the evidence in the record establishes that Mr. Brandt voluntarily quit the employment by walking off the job on November 20, 2020 and by electing not to return and not to make further contact with the employer. The weight of evidence establishes there was no lack of work. This is indicated in part by the employer's recent hiring of another employee to assist with accumulated projects. The weight of the evidence established that Mr. Brandt walked off the job without finishing the project he was assigned to complete on November 20, 2020. Mr. Brandt lacked motivation to be gainfully employed, as indicated by his election to work minimal hours for the employer and lack of other employment during the period of this employment. Mr. Brandt's voluntary departure from this employment mid-project was consistent with that pattern. The weight of the evidence does not support Mr. Brandt's assertion that the employer laid him off. Mr. Brandt is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. Mr. Brandt meet all other eligibility requirements.

The unemployment insurance law requires that benefits be recovered from a claimant who receives benefits and is later deemed ineligible for benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the base period employer failed to participate in the initial proceeding, the base period employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)(a) and (b).

Mr. Brandt received \$2,880.00 in regular benefits for the 24 weeks between November 29, 2020 and May 15, 2021, but this decision disqualifies his for those benefits. Accordingly, the benefits Mr. Brandt received constitute an overpayment of benefits. Because the employer participated in the fact-finding interview, Mr. Brandt is required to repay the overpaid benefits. The employer's account will be relieved of liability for benefits, including liability for benefits already paid.

PL116-136, Sec. 2104 provides, in pertinent part:

(b) Provisions of Agreement

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

....

(f) Fraud and Overpayments

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

(3) Recovery by state agency —

(A) In general.—The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any Federal Pandemic Unemployment Compensation payable to such individual or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal Pandemic Unemployment Compensation to which they were not entitled, in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the State.

(B) Opportunity for hearing.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(4) Review.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

Because this decision disqualifies Mr. Brandt for regular benefits, he is also disqualified for the FPUC benefits he received. Accordingly, Mr. Brandt is overpaid \$5,000.00 in FPUC benefits for the 20 weeks between December 27, 2020 and May 15, 2021. Mr. Brandt must repay the overpaid FPUC benefits unless he applies for and is granted a waiver of repayment. See below.

**DECISION:**

The March 2 2021, reference 01, decision is reversed. The claimant voluntarily quit the employment on November 20, 2020 without good cause attributable to the employer. The claimant is disqualified for benefits until the claimant has worked in and been paid wages for insured work equal to 10 times the claimant's weekly benefit amount. The claimant must meet all other eligibility requirements. The claimant is overpaid \$2,880.00 in regular benefits for the 24 weeks between November 29, 2020 and May 15, 2021. The claimant must repay the overpaid regular benefits. The employer's account will be relieved of liability for benefits, including liability for benefits already paid. The claimant is overpaid \$5,000.00 in FPUC benefits for the 20 weeks between December 27, 2020 and May 15, 2021. The claimant must repay the overpaid FPUC benefits unless he applies for and is granted a waiver of repayment. See below.



---

James E. Timberland  
Administrative Law Judge

---

May 28, 2021  
Decision Dated and Mailed

jet/ol

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits that you must repay.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.