

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TESSA R GALLI**  
Claimant

**APPEAL NO. 20A-UI-10558-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLAZE INC**  
Employer

**OC: 03/15/20**  
**Claimant: Respondent (1)**

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Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Admin. Code r. 871-24.25(38) – Quit Notice Prompts Discharge  
Iowa Code Section 96.3(7) – Recovery of Overpaid Benefits  
Public Law 116-136, Section 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 20, 2020, reference 01, decision that allowed benefits to the claimant for the period of May 17, 2020 through May 30, 2020, provided she was otherwise eligible, but that disqualified the claimant for benefits effective June 1, 2020. The decision was based on the deputy's conclusion that the claimant voluntarily quit without good cause attributable to the employer effective June 1, 2020, but that the employer terminated the employment on May 13, 2020 in response to the claimant's quit notice. After due notice was issued, a hearing was held on October 9, 2020. Claimant Tessa Galli participated and presented additional testimony through Kaitlyn Bernhard. Noah Keck represented the employer. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant (DBRO and KPYX) and received Exhibits 1, 2 and A into evidence.

**ISSUES:**

Whether the claimant voluntary quit was for good cause attributable to the employer.  
Whether the employer discharged the claimant from the employment in response to the claimant's quit notice.  
Whether the claimant was overpaid regular benefits.  
Whether the claimant must repay regular benefits.  
Whether the employer's account may be charged for benefits.  
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: Tessa Galli was employed by Blaze, Inc. as a full-time hair stylist. She last performed work for the employer on March 17, 2020. At that time, the employer temporarily shut its doors to the public pursuant to Governor Reynolds' March 17, 2020 Proclamation of Disaster Emergency, which included a directive that salons close in order to slow the spread of COVID-19. During the shutdown, Ms. Galli was temporarily laid off. In connection with the temporary layoff, Ms. Galli

established an original claim for unemployment insurance benefits that Iowa Workforce Development deemed effective March 15, 2020. Blaze, Inc. is the sole base period employer.

On May 13, 2020, the employer learned that it could reopen on Friday, May 15, 2020. On May 13, 2020, Ms. Galli notified the employer that she has decided to enter into self-employment and was giving her two-week notice. The employer terminated the employment immediately, rather than allow Ms. Galli to work the notice period. On May 14, 2020, Ms. Galli signed a lease agreement to move forward with her self-employment venture. The lease period began on June 1, 2020. On May 15, 2020, Ms. Galli posted notice on social media that she was entering into self-employment and would start taking appointments effective June 1, 2020.

In connection with the claim for benefits that was effective March 15, 2020, Iowa Workforce Development set the weekly benefit amount for regular benefits at \$389.00. Ms. Galli received benefits that included \$336.00 in reduced regular benefits for the week that ended March 21, 2020. Ms. Galli receive \$389.00 in regular benefits for each of the weeks between March 22 and June 6, 2020. Ms. Galli also received \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) for each of the week between March 29, 2020 and June 6, 2020.

Ms. Galli established an additional claim for benefits that was effective August 22, 2020. On August 31, 2020, Ms. Galli made a weekly claim for the week that ended August 22, 2020 and received \$389.00 in regular benefits for the week that ended August 22, 2020. Before Ms. Galli made that weekly claim, the deputy had entered the August 20, 2020, reference 01, decision that disqualified her for benefits for the period beginning June 1, 2020.

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

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.

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 Admin. Code r. 871-24.25(19) and (38) 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:

- ...
- (19) The claimant left to enter self-employment.
- ...

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The evidence in the record establishes that the claimant gave notice on May 13, 2020 of her intention to leave the employment in two weeks so that she could pursue self-employment. The voluntary quit to enter self-employment was without good cause attributable to the employer. The evidence indicates that the employer elected to terminate the employment effective immediately in response to the two-week quit notice. The findings of fact, above, reflect the administrative law judge's credibility determination, which is based on logic, common sense, human nature, and the circumstances surrounding the separation. Ms. Galli may well have expected, based on her friend and coworker's experience, that Mr. Keck would promptly terminate her employment in response to a quit notice. Nonetheless, she did indeed provide a two-week notice. Ms. Galli was still in need of an income prior to starting her self-employment venture. In addition, she was still in need of a winding down period that would allow her to leave in an orderly manner with her license document, her professional equipment, and personal effects, none of which had been removed up to that point. Given that Ms. Galli was high producer and at least the second employee to exit Blaze employment within a year to pursue self-employment, a reasonable person would conclude the employer was upset about the departure and motivated to promptly terminate the employment to discourage a potential further exodus. The claimant's voluntary quit would have taken effect on or about May 28, 2020. Because the employer elected to terminate the employment in response to the May 13, 2020 quit notice, the claimant is eligible for benefits for the notice period, which corresponds to the benefit weeks between May 17, 2020 and May 30, 2020. The claimant is eligible for benefits through May 30, 2020, provided she meets all other eligibility requirements. The employer's account may be charged for benefits for the period ending May 30, 2020. Effective June 1, 2020, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements.

Iowa Code section 96.3(7) provides that if a claimant receives benefits and is deemed ineligible for the benefits, Workforce Development must recover the benefits and the claimant must repay the benefits, even if the claimant was not at fault in receiving the benefits. Ms. Galli received benefits that included \$389.00 in regular benefits for the week that ended June 6, 2020 and another \$389.00 in regular benefits for the week that ended August 22, 2020. Both the August 20, 2020, reference 01, decision and this decision disqualify Ms. Galli for those benefits. The benefits constitute an overpayment of benefits that Ms. Galli must repay.

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...

Because this decision disqualifies Ms. Galli for regular unemployment insurance (UI) benefits for the period beginning June 1, 2020, she is also disqualified for the \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits that she received for the week that ended June 6 2020. Ms. Galli must repay the overpaid FPUC benefits.

**DECISION:**

The August 20, 2020, reference 01, decision is affirmed. The claimant voluntarily quit effective May 28, 2020 without good cause attributable to the employer. The employer discharged the claimant in response to the May 13, 2020 quit notice. The claimant is eligible for benefits for the period ending May 30, 2020, provided she meets all other eligibility requirements. The employer's account may be charged for benefits for the period ending May 30, 2020. Effective June 1, 2020, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits for the period beginning June 1, 2020. The claimant is overpaid \$778.00 in regular benefits for the weeks ending June 6 and August 22, 2020. The claimant is overpaid \$600.00 in FPUC benefits for the week that ended June 6, 2020 and must repay those benefits. The claimant is required to repay the overpaid regular benefits and FPUC benefits.



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James E. Timberland  
Administrative Law Judge

November 20, 2020  
Decision Dated and Mailed

jet/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law for the period beginning June 1, 2020. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received for the period beginning June 1, 2020.**