

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDY W JONES**

Claimant

**APPEAL NO. 06A-UI-09607-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEHAVIORAL TECHNOLOGIES CORP**

Employer

**OC: 08/20/06 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Behavioral Technologies Corporation (employer) appealed a representative's September 19, 2006 decision (reference 01) that concluded Brandy W. Jones (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 16, 2006. The claimant participated in the hearing. Virginia Bradish, the director and owner, Jackie Sauer, a program coordinator, and Amanda Vuth appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 without good cause or did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on October 21, 2002. The claimant worked as a full-time developmental specialist. The claimant understood the employer could assign employees to work as needed at any of the employer's facilities other than the facility an employee was assigned to work. The claimant, however, understood the employer had to give employees reasonable notice as to what facility they were to work.

On April 20, just before 11:00 p.m., the claimant's wife dropped him off at the William's House, where the claimant was scheduled to work. The claimant's wife worked a 7:00 a.m. shift at the Williams' House. After the claimant punched in, Vuth told him Sauer wanted him to work at another facility that night, the Evan's Home, which was three miles away. Sauer had contacted Vuth about 20 minutes earlier. After Vuth relayed Sauer's instructions, the claimant indicated he was not going to go to the Evan's Home.

Around 11:05 p.m. Sauer called to make sure the claimant knew he was reassigned to work at the Evan's Home. Sauer talked to the claimant and understood he would not work at the Evan's

Home. When the claimant indicated he would work at his assigned home, William's House, Sauer indicated another employee was already going to work and he could not work at the William's House that night. After the claimant was not allowed to work at the William's House, he punched out and walked home.

The morning of April 21, the claimant went to work around 8:00 a.m. to talk to Bradish about the incident the night before. Sauer told Bradish the claimant had quit. Bradish then informed the claimant he no longer worked for the employer because when he walked out the night before, that he had quit, and the employer could not rehire him.

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits-employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ Section 96.5-1, 2-a. The employer has the burden to prove the claimant either quit or was discharged. Iowa Code § 96.6.2 A preponderance of the facts do not establish that the claimant intended to quit his employment when he punched out and left work early on April 20. Sauer knew the claimant punched out and left. The claimant understood that Sauer told him to punch out when he would not work at the Evan's Home. The employer initiated the employment separation when the employer told the claimant on April 21 that he no longer worked for the employer and the employer could not rehire him.

The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Prior to April 20, the claimant's job was not in jeopardy. Unfortunately on April 20, the employer did not inform the claimant in a reasonable amount of time that he was to work at the Evan's Home instead of the William's House. The claimant and Sauer presented conflicting testimony as to what they said to one another at 11:05 p.m. on April 20. Sauer recalled the claimant telling her he would not work at the Evan's Home. The claimant indicated that when he told Sauer he did not have transportation to get to the Evan's Home, she told him this was not her problem. The evidence indicates that neither employee acted in a way to resolve the problem, but instead engaged in a minor confrontation. After Sauer insisted that the claimant work at the Evan's Home, the claimant punched out and walked home. After the claimant had an opportunity to think about the situation and calm down, he acknowledged the next day he should not have left work.

Neither the claimant nor Sauer acted in a reasonable manner the night of April 20. While the claimant's actions are not condoned, the isolated April 20 incident does not by itself rise to the

level of work-connoted misconduct. Therefore, as of August 20, 2006, the claimant is qualified to receive unemployment insurance benefits.

**DECISION:**

The representative's September 19, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of August 20, 2006, 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw