

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL D NONG
Claimant

APPEAL NO. 09A-UI-03084-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANKENY INTERNAL MEDICINE PC
Employer

**Original Claim: 11/16/08
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Ankeny Internal Medicine PC, filed an appeal from a decision dated February 16, 2009, reference 02. The decision allowed benefits to the claimant, April Nong. After due notice was issued, a hearing was held by telephone conference call on March 23, 2009. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by President Cynthia Juhler, Office Manager Jeff Haren, Medical Assistant Linda Shute, and Debbie Campbell.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

April Nong was employed by Ankeny Internal Medicine from December 1, 2008 until January 14, 2009 as a full-time front desk worker. Her job included making appointments and collecting payments from the patients. She was trained one-on-one at the beginning of her employment by another employee, Debbie Campbell, and was given a document outlining her duties and the procedure to be used in performing them. Ms. Nong was the sole person responsible for the collection of payments from the patients.

As early as mid-December 2008, the employer noticed an increase in cash shortages for the weekly deposit. In early January 2009, Medical Assistant Linda Shute reported \$300.00 missing from the wallet in her purse, which was in an area accessed only by other employees.

On January 9, 2009, the claimant was no-call/no-show to work. When questioned by President Cynthia Juhler, she said she had been sick the day before but gave no explanation as to why she had not called in. The evening of January 13, 2009, Ms. Campbell was doing the weekly finances and found there were two receipts signed by Ms. Nong for which the cash could not be accounted. One receipt was for \$30.00 and the other for \$15.00. The claimant was the only staff member in the office whose responsibility it was to collect money from patients.

That same evening, Office Manager Jeff Haren checked the Internet and discovered Ms. Nong had been in jail January 9, 2009, and not ill. She had misrepresented the reason for her absence. When Dr. Juhler confronted her the next day about the missing cash, she stated she could remember receiving \$15.00 but did not recollect the \$30.00 payment, or where any of the money might be. She was discharged at that time for mishandling of office monies.

April Nong filed a claim for unemployment benefits with an effective date of November 16, 2008. She filed an additional claim effective January 18, 2009. The records of Iowa Workforce Development indicate no benefits have been paid after January 18, 2009.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant was thoroughly trained in the performance of her job duties and had the opportunity to ask questions of Ms. Campbell or others in the office if she needed further information. As soon as she began performing her duties, cash began disappearing, not only the employer's funds but money belonging to other employees. She was dishonest with the employer as to the reason she was absent from work January 9, 2009, and was responsible for missing money that was discovered January 13, 2009.

The record establishes the claimant was at the very least refusing to perform her job duties as she was trained to do, and at the worst, stealing from the employer and co-workers. Ms. Nong

lied to her employer regarding the reason for her absence January 9, 2009, which further impugns her honesty. She was discharged for conduct not in the best interests of the employer and is disqualified.

DECISION:

The representative's decision of February 16, 2009, reference 02, is reversed. April Nong is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw