

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**NICOLE A KROLL
405 WINDSOR WAY
SGT BLUFF IA 51054**

**BEKINS DISTRIBUTION CENTER CO
2501 EXPEDITION CT
SIOUX CITY IA 51111-1164**

**Appeal Number: 04A-UI-08158-CT
OC: 07/04/04 R: 01
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Bekins Distribution Center Company (Bekins) filed an appeal from a representative's decision dated July 22, 2004, reference 01, which held that no disqualification would be imposed regarding Nicole Kroll's separation from employment. After due notice was issued, a hearing was held by telephone on August 19, 2004. Ms. Kroll participated personally. The employer participated by Roger Smith, Benefits Manager, and Sherry Yoerger, Senior VP/CFO.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Kroll was employed by Bekins from March 7, 2001 until July 1, 2004 as a full-time accountant. The decision to discharge her from the employment was prompted by her dishonesty.

On April 23, Ms. Kroll was sent an e-mail asking what steps she was taking to collect money from the Shaefers. Ms. Kroll indicated she would determine what had not been paid and send a letter to the Shaefers. Sherry Yoerger sent her an e-mail requesting a copy of the letter. On May 5, Ms. Yoerger sent an e-mail asking why the letter had not gone out. Ms. Yoerger never received a copy of any letter to the Shaefers. On July 1, Ms. Yoerger sent Ms. Kroll an e-mail asking about the status of collections with the Shaefers. Ms. Kroll responded by stating that the Shaefers were looking into the charges and that she would get in touch with them again. Ms. Yoerger's next e-mail requested that Ms. Kroll provide her with the Shaefers' telephone number. When she did not get any response to her e-mail, she approached Ms. Kroll's desk. Ms. Kroll indicated she was having a difficult time locating the number. When Ms. Yoerger asked how she could have been in touch with them if she did not have the telephone number, Ms. Kroll indicated that they had called her. Approximately 15 minutes after Ms. Yoerger left her desk, Ms. Kroll approached her and stated that she had never contacted the Shaefers and that she had lied about contacting them. Ms. Yoerger immediately discharged her.

In making the decision to discharge, the employer considered two other disciplinary actions taken against Ms. Kroll. On May 2, the employer discovered two checks which should have been deposited to the employer's account. The checks were three weeks old. The employer also discovered ten checks which had not been mailed to vendors. The checks were several weeks to several months old. Some of the checks had been signed and could have been mailed out. Other checks required additional follow-up. On May 26, Ms. Kroll received another warning after the petty cash was stolen. It was kept in an overhead cabinet at Ms. Kroll's desk. Although she was responsible for petty cash, she was not the only individual with a key to the cabinet.

Ms. Kroll has received a total of \$1,464.00 in job insurance benefits since filing her claim effective July 4, 2004. An overpayment in the amount of \$498.00 has been assessed based on her receipt of vacation pay from Bekins.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Kroll was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Kroll's discharge was precipitated by her acknowledged dishonesty. Her statements to Ms. Yoerger prior to July 1 about contacting the Shaefers were acknowledged on July 1 to be untrue. The employer had the right to expect Ms. Kroll to be honest but, she breached her obligation by providing false information regarding the status of her work. Providing false information to one's employer constitutes a substantial disregard of the standards an employer has the right to expect. Ms. Kroll's dishonesty is sufficient, standing alone, to constitute disqualifying misconduct. Therefore, benefits are denied.

Ms. Kroll has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code Section 96.3(7). She has been overpaid \$966.00 in addition to the \$498.00 overpayment previously assessed by Workforce Development.

DECISION:

The representative's decision dated July 22, 2004, reference 01, is hereby reversed. Ms. Kroll was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Kroll has been overpaid an additional \$966.00 in job insurance benefits.

cfc/b