

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAPPHIRE R MALLETT
Claimant

APPEAL NO. 09A-UI-08698-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FIRE MOUNTAIN RESTAURANTS INC
Employer

OC: 05/23/09
Claimant: Respondent (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Fire Mountain Restaurants, Inc. filed an appeal from a representative's decision dated June 8, 2009, reference 01, which held that no disqualification would be imposed regarding Sapphire Mallett's separation from employment. After due notice was issued, a hearing was held by telephone on July 2, 2009. Ms. Mallett participated personally. The employer participated by Rick Matheny, General Manager.

ISSUE:

At issue in this matter is whether Ms. Mallett was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Mallett was employed by Fire Mountain Restaurants, Inc. from June 3, 2008 until May 3, 2009. She worked from 20 to 30 hours each week as a cashier. She was discharged because of three coupon errors.

The employer distributes coupons which allow a customer to receive a second meal for \$4.99 when a regular meal is purchased for \$10.19. If the party has more than two people, only one person is entitled to the \$4.99 meal. Ms. Mallett had three coupon errors on one day, April 30, 2009. On all three occasions, she charged all parties \$4.99 for their meals. At least one of the parties contained three people. The coupons had been in use for at least one year and Ms. Mallett had handled them properly in the past. As a result of her actions, she was discharged on May 3, 2009.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Mallett was discharged because of errors in handling discount

coupons. She may not have deliberately and intentionally committed the errors. However, she was negligent in handling the coupons.

Ms. Mallett had been working as a cashier for one year and the coupons had been in use for at least one year. She had used the coupons correctly in the past. It was her responsibility to be familiar with the coupons or to read them as they were presented. If the errors had occurred sporadically over a period of time, the administrative law judge would be inclined to view them as isolated instances of negligence. However, all three occurred on the same day. The administrative law judge concludes that the negligence in this case was so recurrent as to manifest a substantial disregard for the employer's interests or standards. For the above reasons, benefits are denied.

No overpayment results from this reversal of the prior allowance as Ms. Mallett has not been paid benefits on her claim filed effective May 3, 2009.

DECISION:

The representative's decision dated June 8, 2009, reference 01, is hereby reversed. Ms. Mallett was discharged for misconduct in connect with her employment. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css