

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATLYN N CLINGAN
Claimant

APPEAL NO. 11A-UI-05270-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 03/27/11
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Katlyn Clingan filed an appeal from a representative's decision dated April 15, 2011, reference 01, which denied benefits based on her separation from Hy-Vee, Inc. After due notice was issued, a hearing was held by telephone on May 16, 2011. Ms. Clingan participated personally and offered additional testimony from Mark Annicchiarico. The employer participated by Collin Venenga, Store Director, and Dave Kozak, Assistant Director of Loss Prevention. Exhibits One, Two, and Three were admitted on the employer's behalf. The employer was represented by John Fiorelli of Corporate Cost Control, Inc.

ISSUE:

At issue in this matter is whether Ms. Clingan 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. Clingan was employed by Hy-Vee, Inc. from June 3, 2010 until March 25, 2011. She was last employed full time as a head cashier. She was discharged due to dishonesty.

The employer has a Coinstar machine within the store. Customers put loose change into the machine, which counts it and generates a slip that tells the customer the value of the coins submitted. The slip is then taken to either the customer service counter or to a register. A Hy-Vee employee redeems the slip by running it through a machine that endorses it. The perforated edge is removed and the customer is given the cash value of the slip or can apply the proceeds to a store purchase. A Coinstar slip that has not gone through this redemption process is considered the same as cash.

On March 21, a cashier by the name of Megan accepted a Coinstar slip from a customer in the amount of \$52.82. She did not redeem the slip properly but did deduct the value of the slip from the customer's purchase. She then put the slip in her pocket rather than the register drawer. When her register was reconciled, it was determined that it was off by \$52.82. On or about March 24, the employer noted that a Coinstar slip had been redeemed for the exact amount of Megan's shortage. The employer reviewed its surveillance tapes to determine who had

redeemed the slip. It was determined at that time that Ms. Clingan's boyfriend was the one who redeemed it.

Ms. Clingan told the employer that she and her boyfriend found the unredeemed slip while she was outside on break. She indicated it was found crumpled up on the ground. It was clearly identifiable as having come from the Hy-Vee store where Ms. Clingan worked. The employer does not know how the slip got from Megan's pocket to an outside location. During the early morning hours of March 23, Ms. Clingan's boyfriend redeemed the Coinstar slip for \$52.82. He purchased approximately \$15.00 in merchandise and received the balance in cash. Ms. Clingan accompanied him to the store but did not go in.

Ms. Clingan did not at any point notify a member of management that a lost and unredeemed slip had been found. She did not know that the customer had, in his or her mind, already redeemed the slip. The employer considered her actions to be dishonest and, therefore, she was discharged on March 25, 2011. The above matter was the sole reason for the discharge.

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. Clingan was discharged because of her failure to turn in a Coinstar slip that had not been redeemed. She knew when she found it that it had not yet been redeemed and that it had monetary value. It was her belief that it had been lost. Given the relatively large value of the slip, she knew or should have known that the true owner might look for it. She had no way of knowing at that time that no customer would be looking for it as the customer believed it had already been redeemed on March 21.

The employer had the right to expect that its employees would turn in an item of value belonging to a customer if found on Hy-Vee property. Ms. Clingan's conduct was clearly contrary to those expectations. She was dishonest in redeeming, or allowing the redemption of, a slip that did not belong to either her or her boyfriend. For the above reasons, it is concluded that disqualifying misconduct has been established. Accordingly, benefits are denied.

DECISION:

The representative's decision dated April 15, 2011, reference 01, is hereby affirmed. Ms. Clingan was discharged for misconduct in connection with her employment. Benefits are denied 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