

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REGINA L MINARD
Claimant

APPEAL NO. 10A-UI-15719-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 09/26/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Regina Minard filed an appeal from a representative's decision dated November 9, 2010, reference 02, which denied benefits based on her separation from Hy-Vee, Inc. After due notice was issued, a hearing was held by telephone on January 10, 2011. Ms. Minard participated personally. The employer participated by Tracy McKoon, Human Resources Manager; Katie Ludens, Assistant Manager; and Dave Beach, Store Director. Exhibits One through Four were admitted on the employer's behalf. The employer was represented by John Fiorelli of Corporate Cost Control.

ISSUE:

At issue in this matter is whether Ms. Minard 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. Minard was employed by Hy-Vee, Inc. from January 26, 2008 until September 21, 2010. She worked approximately 15 hours each week as a cashier. She was discharged due to attempted theft.

A cashier's register will sometimes print out what are called "Catalina Coupons." The coupons offer the shopper discounts on selected products or money off their next purchase. If the customer declines the coupons, the cashier is to mark the coupon with an "R" and place it in the drawer. The coupons are not to be used by the cashier. On September 21, it was observed that two Catalina Coupons were generated by Ms. Minard's register but were not given to the customer. The coupons were for \$5.00 and \$3.00 off the customer's next purchases. Ms. Minard placed an "R" on the \$5.00 coupon but put the \$3.00 coupon in her apron pocket with the intention of using it for personal purchases during her break.

When questioned by the employer on September 21, Ms. Minard acknowledged that she knew the employer's policy regarding the coupons. She also acknowledged at that time that she

knew her actions were wrong. As a result of the conduct, she was discharged the same day. 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. Minard was discharged because she attempted to take a coupon valued at \$3.00. Although she returned the coupon when requested to do so, the fact remains that she took it with the intention of using it for a personal purchase in violation of a known work rule.

It was Ms. Minard's contention that she was not aware of the employer's policy regarding the coupons. The administrative law judge did not find her testimony in this regard to be credible. The coupon program was in existence the entire length of her employment. She testified that she was aware of other employees using the coupons for personal purchases. She also testified that September 21 was the first and only time she had used a coupon refused by a customer. Given the above factors, the administrative law judge would have to wonder why Ms. Minard had not previously availed herself of unwanted coupons. Moreover, according to her own testimony, she used the correct procedure with respect to the \$5.00 coupon her register generated on September 21.

The \$3.00 coupon taken by Ms. Minard represented \$3.00 she would not have to pay if she used the coupon. It was, in essence, \$3.00. Theft represents a substantial disregard of the standards an employer has the right to expect. Although the amount involved in this case was relatively small, it still represented theft. For the reasons cited herein, it is concluded that disqualifying misconduct has been established and benefits are denied.

DECISION:

The representative's decision dated November 9, 2010, reference 02, is hereby affirmed. Ms. Minard was discharged by Hy-Vee, Inc. for disqualifying misconduct. 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