

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

TRACY K SHAY
2459 – 285TH AVE
WELDON IA 50264

CELLULAR ADVANTAGE INC
3829 – 100TH ST
URBANDALE IA 50322-2049

Appeal Number: 04A-UI-00998-CT
OC: 12/14/03 R: 03
Claimant: Appellant (4)

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(5)a – Severance Pay

STATEMENT OF THE CASE:

Tracy Shay filed an appeal from a representative's decision dated January 27, 2004, reference 02, which held she was not eligible to receive job insurance benefits for the two weeks ending December 27, 2003 because of her receipt of severance pay. After due notice was issued, a hearing was held by telephone on February 23, 2004. Ms. Shay participated personally. The employer participated by Matt Hayertz, CFO, and Doug Ecklund, CEO.

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. Shay's last day of work for Cellular Advantage, Inc. was October 31, 2003. She was paid severance pay in the gross amount of \$11,666.68. The employer indicated on the notice of claim form that the severance pay was for the period November 1 through December 31, 2003. Ms. Shay filed her claim for job insurance benefits effective December 14, 2003.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is what effect, if any, Ms. Shay's receipt of severance pay has on her eligibility for job insurance benefits. The employer timely designated the severance payment to cover the period November 1 through December 31, 2003. Therefore, Ms. Shay would be ineligible for benefits for this period of time. See 871 IAC 24.13(3). The representative's decision disqualified her from receiving benefits through the week ending December 27. Therefore, the remainder of the severance pay would be deducted the week ending January 3, 2004.

Ms. Shay had three days of severance pay attributed to the week ending January 3. The severance pay computes to a daily rate of \$271.32 (\$11,666.68 divided by 43 working days). The three days of severance pay amounts to \$813.96. Because this amount exceeds Ms. Shay's weekly job insurance benefit of \$300.00, she would not be eligible to receive job insurance benefits for the week ending January 3, 2004.

DECISION:

The representative's decision dated January 27, 2004, reference 02, is hereby modified. Ms. Shay is not eligible to receive job insurance benefits for the three weeks ending January 3, 2004 because of her receipt of severance pay. Benefits are allowed thereafter, provided she satisfies all other conditions of eligibility.

cfc/kjf