

**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**

**BARBARA M MCDONALD  
1401 HAROLD DR SE  
CEDAR RAPIDS IA 52403**

**MOBILITY COMMUNICATIONS  
1325 BOYSON RD  
HIAWATHA IA 52233**

**Appeal Number: 04A-UI-04270-H  
OC: 03/21/04 R: 03  
Claimant: Respondent (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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer, Mobility Communications, filed an appeal from a decision dated April 8, 2004, reference 01. The decision allowed benefits to the claimant, Barbara McDonald. After due notice was issued a hearing was held in Cedar Rapids, Iowa, on May 19, 2004. The merits of the case were not heard at that time due to question of whether an employer/employee relationship existed. The matter was remanded to the Tax Section for determination.

FINDINGS OF FACT:

Having examined all of the evidence in the record, the administrative law judge finds: The Iowa Workforce Development Tax Section investigated the issue of the business relationship between the parties. A decision was issued which determined the relationship to be that of an independent contractor.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

No employer/employee relationship existed between the parties and therefore the claimant's cessation of work for the business is not a disqualifying event.

DECISION:

The representative's decision of April 8, 2004, reference 01, is modified in favor of the appellant. Barbara McDonald is qualified for benefits provided she is otherwise eligible. The earnings from Mobility Communications shall not be used in determining her wage credits, and the employer's account shall not be charged with benefits paid to the claimant.

bgh/kjf