

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUSSEL L SLEPER
Claimant

APPEAL NO. 10A-DUA-00009-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**Disaster Effective Date: 06/06/10
Declaration #: 1930
Claimant: Appellant (2)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

STATEMENT OF THE CASE:

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated September 20, 2010, that concluded the claimant was ineligible to receive DUA because the claimant was not unemployed as a result of a major disaster. A telephone hearing was held on November 3, 2010. The claimant participated in the hearing. Exhibit A was admitted into evidence at the hearing. Based on the evidence, the arguments of the claimant, and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered.

ISSUE:

Is the claimant unemployed as a result of a major disaster?

FINDINGS OF FACT:

The claimant filed an application for DUA on September 12, 2010, with an effective date of June 6, 2010. The claimant is a self-employed farmer. The claimant has a 520-acre farm in Kossuth County, Iowa, which was declared a major disaster area. He raises corn and soybeans on the farm. As of June 6 in a normal year, the claimant would be working an average of 60 hours per week spraying his crops and performing other fieldwork.

The claimant planted 245 acres of corn and 245 acres of soybeans. Starting in June 2010, disaster conditions in the form of heavy rains caused flooding on the claimant's farm and substantial damage to the crops. The disaster conditions caused approximately 40 percent of the crops to be lost completely or severely damaged.

As of June 6, 2010, the claimant was not able to perform his customary full-time hours in self-employment due to the weather and soil conditions. The extent of the disaster has caused and will cause the claimant to work substantially less than his customary full-time hours throughout the crop season.

REASONING AND CONCLUSIONS OF LAW:

"The Robert T. Stafford Disaster Relief and Emergency Assistance Act" includes a program for the payment of unemployment assistance benefits to individuals unemployed as a result of a major disaster. See 42 USC §§ 5177, 5189a; 20 CFR Part 625. Under the pertinent part of the regulations, an individual is eligible to receive a payment of DUA for a week if the week is a "week of unemployment" that is caused by a major disaster. 20 CFR § 625.4(d) and (f).

For a self-employed individual, a "week of unemployment" is a week during which an individual is "totally, part-totally, or partially unemployed." An individual is "totally unemployed" in a week during which he performs no services in self-employment. "Partially unemployed" is defined as "a week during which the individual performs less than the customary full-time services in self-employment, as a direct result of the major disaster, and earns wages not exceeding the maximum earnings allowance prescribed by State law." 20 CFR § 625.2(w)(2).

The claimant suffered substantial damage to his crops which caused a substantial reduction in his customary farm work. The claimant has established that he is totally or partially unemployed due to the disaster. The claimant is eligible to receive DUA benefits as of the effective date of his claim and continuing until he is no longer unemployed due to the disaster, provided he is otherwise qualified.

DECISION:

The DUA decision dated September 20, 2010, is reversed. The claimant is eligible to receive DUA benefits, provided he is otherwise qualified.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css