

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY E DENCKLAU
Claimant

APPEAL NO. 08A-DUA-00009-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 05/25/08 R: 01
Claimant: Appellant (4)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

STATEMENT OF THE CASE:

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated July 24, 2008, 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 August 12, 2008. The claimant participated in the hearing. Exhibit One 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 July 8, 2008, with an effective date of May 25, 2008. The claimant is a self-employed farmer. The claimant has a 320-acre farm in Wright County, Iowa, which was declared a major disaster area. Claimant raises corn and soybeans on the farm. As of May 25, 2008 in a normal year, the claimant would be working an average of 20 hours per week. In a normal year, the claimant would complete this fieldwork by May 5, 2008. Claimant was not able to complete planting until about May 15, 2008. Claimant usually works about 20 hours per week from May 25, 2008 through June 21, 2008. Claimant was completely unable to work his normal work weeks May 25, 2008 through June 21, 2008 due to rain.

Claimant applied for additional weeks of unemployment effective June 22, 2008 through July 19, 2008. Claimant normally works one to five hours a week during this later period. Claimant does not work sufficient hours during the latter period to be considered employed full time.

Claimant lost about 15% to 20% of his crop due to the heavy rainfall. Claimant had to replant about 10% of his crops.

The claimant planted 160 acres of corn and 160 acres of soybeans. Starting in May, disaster conditions in the form of heavy rains caused flooding on the claimant's farm and damage to the

crops. The disaster conditions caused approximately 17.5 percent of the claimant's crops to be lost completely or severely damaged.

As of May 25, 2008 the claimant was unable to perform his customary full-time hours, due to the weather and soil conditions. After approximately June 21, 2008, conditions had improved sufficiently that the claimant was able to resume the customary hours of work on the farm.

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 has demonstrated sufficient damage to his crops to warrant an award of DUA throughout the crop season. The claimant has, however, established weeks in which he was totally or partially unemployed due to the disaster as defined by the DUA regulations. The claimant is eligible to receive DUA benefits for the period between May 25, 2008 and June 21, 2008, provided he is otherwise qualified. Claimant does not work sufficient hours during the later part of the season to establish full time self employment. Benefits shall be withheld effective June 22, 2008.

DECISION:

The DUA decision dated July 24, 2008, is modified in favor of the claimant. The claimant is eligible to receive DUA benefits for the period between May 25, 2008 and June 21, 2008, provided he is otherwise qualified.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs