

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD J NELSON
Claimant

APPEAL NO. 08A-DUA-00001-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 02
Claimant: Appellant (2)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

STATEMENT OF THE CASE:

Ronald J. Nelson (claimant) appealed a Disaster Unemployment Assistance (DUA) July 10, 2008, that concluded he was ineligible to receive DUA because he was not unemployed as a result of a major disaster. A telephone hearing was held on July 30, 2008. The claimant and Brenda Nelson, his spouse, participated in 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 3, 2008, with an effective date of June 8, 2008. The claimant is a self-employed farmer. The claimant has a 240-acre farm in Buchanan County, Iowa, which was declared a major disaster area.

In 2008, the claimant planted 157 acres of corn and 58 acres of soybeans on his farm. He also has about 15 acres of hay. The claimant has a total of 44 cows, calves and steers. The claimant uses about 30 percent of the corn he grows for his livestock. He sells the rest of the corn and soybeans for cash. In a normal year, the claimant would be working more than 40 hours a week doing field work in late May and June.

Starting on May 25 2008, disaster conditions in the form of heavy rains, high winds, and hail caused flooding on the claimant's farm and damaged his crops. The disaster conditions caused approximately 20 percent of the claimant's crops to be lost completely. The claimant usually does his first hay cutting in late May. As a result of the flooding, the claimant was unable to get his first hay cutting until June 27, 2008. In addition to loosing 20 percent of his crops because of flooding, 10 percent of his land is now covered in sand, which has prevented his crops in the sand from growing properly. Hail damage to his soybeans was estimated at two percent. The claimant has noted significant problems with his crops properly pollinating.

As of May 25, 2008, the claimant was unable to perform his customary full-time hours in the fields, due to the weather and soil conditions. He continued to work less than his normal hours on field work up through June 27. June 27 was the first time he was able to get back into his fields to work. The claimant estimates that taking into consideration that 20 percent of his crops was washed out, 50 percent of his crops were either totally or severely damaged by the disaster conditions.

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 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 demonstrated sufficient damage to his crops to warrant DUA benefits throughout the crop season in weeks he works less than his customary full-time hours because of his crop losses due to the disaster. Therefore, the claimant is eligible to receive DUA benefits as of June 8, 2008. The claimant must file continued requests for DUA and report the number of hours he works in his fields. The Department will decide if he is working less than his customary hours on a week-by-week basis.

DECISION:

The DUA decision dated July 10, 2008, is reversed. As of June 8, 2008, the claimant is eligible to receive DUA benefits throughout the crop season in weeks that he works less than his customary full-time hours.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw