

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PAUL A SCHLICHTING**

Claimant

**APPEAL NO. 08A-DUA-00021-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FEDERAL UNIT  
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 02  
Claimant: Appellant (1)**

20 CFR 625.4 - Unemployment Caused by a Major Disaster

**STATEMENT OF THE CASE:**

The claimant appealed a Disaster Unemployment Assistance (DUA) decision dated August 5, 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 scheduled for August 27, 2008. Proper notice of the hearing was given to the claimant. By request of the party, the telephone hearing was changed to and held on August 25, 2008. The claimant did participate in the hearing. Based on the administrative file and the law, the following findings of fact, reasoning and conclusions of law, and decision are entered. Claimant participated. Exhibit AA was admitted into evidence.

**ISSUE:**

Is the claimant eligible to receive DUA benefits?

**FINDINGS OF FACT:**

The claimant filed an application for DUA on July 9, 2008, with an effective date of June 8, 2008. The claimant is not a self-employed farmer but instead works for a family farm corporation. The corporation has a 2,000-acre farm in Franklin County, Iowa, which was declared a major disaster area. They raise corn and soybeans on the corporate farm. Claimant suffered a 12 percent replanting loss and potential yield loss overall of about 15 percent on the corporate acreage. Claimant's work hours were reduced from 70 hours a week to about zero hours a week during the disaster period.

Claimant's works for a family farm corporation as President. For the time period June 8, 2008 through July 5, 2008, claimant received a monthly salary from the corporation of \$2,500.00 per month. Claimant's salary did not diminish as a result of the disaster.

Starting in June 2008, disaster conditions in the form of heavy rains caused flooding on the claimant's farm and damage to the crops. There is substantial proof that disaster conditions caused the claimant to be unable to perform his customary employment and caused the claimant's hours of employment to be substantially reduced. Claimant's corporate salary was not reduced.

**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 is ineligible to receive DUA benefits, because he was not unemployed due to the disaster. Claimant received his normal salary from the corporation during the disaster period. Therefore, claimant was not unemployed due to the receipt of her normal pay from the corporation. If the pay had been suspended, claimant would have been eligible for benefits. This is not an issue of credibility of the witnesses, it is an issue of law. Receipt of the salary during the disaster period is proof of employment.

**DECISION:**

The DUA decision dated August 5, 2008, is affirmed. The claimant is ineligible to receive DUA benefits.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw