

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONNIE L WHITE
Claimant

APPEAL NO: 08A-DUA-00047-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 03
Claimant: Appellant (2)**

20 CFR § 625.4(d)&(f) – Definition of Week of Unemployment

STATEMENT OF THE CASE:

Ronnie L. White (claimant) appealed a Disaster Unemployment Assistance (DUA) October 22, 2008 decision that concluded he was ineligible to receive DUA benefits as of October 11, 2008, because he had returned to working his customary hours on his farm. A telephone hearing was held on November 12, 2008. The claimant 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 eligible to receive benefits as of October 11, 2008?

FINDINGS OF FACT:

The claimant established a DUA claim with an effective date of May 25, 2008. The claimant was determined eligible to receive DUA benefits. The claimant is a self-employed farmer.

When the claimant filed his claim a representative told him to report he worked 50 hours a week each week he filed a claim for benefits. The claimant has reported he worked 50 hours a week every week since June 8, 2008. The 50 hours of work the claimant reports is not work he has done in the fields. Instead, this work consists of maintenance work around his farm.

The claimant did not start harvesting his crops on October 11 because his crops are developing later than normal because of the earlier flooding. As of the date of the hearing, the claimant has not harvested his crops yet.

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 Department previously determined the claimant was eligible to receive DUA benefits because he became unemployed as a result of a disaster. The basis for the current disqualification appears to be based on the fact the claimant reported he worked 50 hours a week on his farm. However, the 50 hours the claimant worked was not in his fields. As of October 11, the claimant had not started harvesting his crops because they were not ready to be harvested as a result of the flooding that occurred in May and or June. Since the claimant did not return to his customary fieldwork as of October 11, 2008, he remains eligible to receive benefits as of October 11, 2008. The claimant should however, report when he starts his harvest and when he has completed his harvest.

DECISION:

The DUA decision dated October 22, 2008, is reversed. The claimant remains eligible to receive DUA benefits as of October 11, 2008, because he has not returned to his customary hours of work in his fields. When the claimant starts harvesting his crops and has completed his harvest, he should report this to the Department.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css