

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY G CRAWFORD
Claimant

APPEAL NO. 08A-DUA-00002-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 05/25/08 R: 03
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 11, 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 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 June 24, 2008, with an effective date of May 25, 2008. The claimant is a self-employed farmer. The claimant has a 2,073-acre farm in Buchanan County, Iowa, which was declared a major disaster area. He raises corn and soybeans on the farm. As of May 25 in a normal year, the claimant would be working an average of 50 hours per week finishing planting and spraying his crops. In a normal year, the claimant would complete this fieldwork by July 4.

The claimant planted 1,360 acres of corn and 713 acres of soybeans. Starting in May 2008, 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 25 to 30 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 in the fields, due to the weather and soil conditions. He continued to work less than his normal hours on field work up through July 4 when he normally would be finished with spraying his crops.

The claimant normally starts harvesting his crops during the second week of September and finishes all his fall fieldwork, including after harvest tillage and cleanup by Thanksgiving.

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 has not 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 and July 4, 2008, provided he is otherwise qualified. As of July 4, he is no longer unemployed due to the disaster because he normally finishes the pre-harvest fieldwork by then.

If the claimant has any weeks during the fall harvest season from September 14 through November 29, in which he is working less than customary full time hours because of crop losses due to disaster conditions, he must file continued requests for DUA that explain why he believes he is unemployed due to the disaster. The Agency will decide if he is working less than his customary hours on a week-by-week basis.

DECISION:

The DUA decision dated July 11, 2008, is modified in favor of the claimant. The claimant is eligible to receive DUA benefits for the period between May 25 and July 4, 2008, provided he is otherwise qualified.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs