

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY E DENCKLAU
Claimant

APPEAL NO. 08A-DUA-00042-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEDERAL UNIT
ADMINISTRATIVE OFFICE

**OC: 05/25/08 R: 01
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 September 24, 2008, that concluded the claimant was ineligible to receive DUA because the claimant returned to customary full time services in self-employment. A telephone hearing was held on October 17, 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 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 Webster County, Iowa, which was declared a major disaster area. He raises corn and beans on the farm. As of July 5, 2008 claimant had finished replanting. Claimant had no other work that he could perform, because the crops had grown too tall. Claimant started harvesting October 6, 2008. Claimant was working few if any hours from July 5, 2008 through October 5, 2008. Claimant could not work in the fields for a variety of reasons. Primarily, the lack of work was due to crops advancing in maturity. The primary reason for unemployment was not due to conditions that precipitated declaration of Webster County as a disaster area.

After approximately July 5, 2008, conditions had improved sufficiently that the claimant was able to resume the customary hours of work on the farm. The lack of work was the result of crop maturity and not weather 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, 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 not demonstrated sufficient interruption of work caused by weather to warrant an award of DUA throughout the crop season. The claimant is not eligible to receive DUA benefits effective June 29, 2008.

DECISION:

The DUA decision dated September 24, 2008, is affirmed. Benefits shall be withheld effective June 29, 2008.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw