

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS A COOPER
Claimant

APPEAL NO. 08A-DUA 00008-SWT

**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 July 18, 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 held on August 11, 2008. The claimant participated in the hearing. Exhibit A-1 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 3, 2008, with an effective date of May 25, 2008. The claimant is a self-employed farmer. The claimant has a 480-acre farm in Webster County, Iowa, which was declared a major disaster area. He raises corn and soybeans on the farm. The claimant normally finishes his spring fieldwork, including spraying his crops with herbicides by June 14

The claimant planted 240 acres of corn and 240 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 30 percent of the claimant's crops to be lost completely or severely damaged.

As of May 25, 2008, the claimant had finished all the fieldwork he planned to do personally. While the claimant has sprayed his crops in the past, he always planned to have the elevator spray his crops in 2008. This decision did not have anything to do with the wet weather and soil conditions.

The claimant normally starts harvesting his crops at the end 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, 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 damage to his crops to warrant an award of DUA throughout the crop season. Furthermore, he has not established any weeks starting May 25, 2008, in which he was totally or partially unemployed due to the disaster as defined by the DUA regulations. The claimant had completed the field work he had planned to do by May 25, 2008. He did not plan to do the spraying himself for reasons unrelated to the disaster. The DUA program is an unemployment program that does not provide benefits based on economic loss but instead compensates farmers for weeks in which they would normally be working out in the fields but cannot due to disaster conditions.

If the claimant has any weeks during the fall harvest season from September 28 through November 29, in which he is working less than customary full time hours 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 18, 2008, is affirmed. The claimant is not current eligible to receive DUA benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css