

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAMION M STOHR**  
Claimant

**APPEAL NO. 08A-DUA-00046-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FEDERAL UNIT  
ADMINISTRATIVE OFFICE**

**OC: 06/08/08 R: 02  
Claimant: Appellant (2)**

20 CFR § 625.2(w)(1) – Definition of Unemployed Worker

**STATEMENT OF THE CASE:**

Damion M. Stohr (claimant) appealed a Disaster Unemployment Assistance (DUA) October 13, 2008 decision that concluded he was ineligible to receive DUA benefits as of September 20, 2008, because he had returned to his normal employment. A telephone hearing was held on November 6, 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 still eligible to receive benefits as of September 20, 2008?

**FINDINGS OF FACT:**

The claimant established a DUA claim with an effective date of June 8, 2008. The claimant was determined eligible to receive DUA benefits.

Prior to a May 25, 2008 tornado, the claimant worked at Pizza Ranch. The claimant began this employment in February 2007. During the school year, the claimant worked weekends and worked an average of 15 hours a week. The claimant worked 20 to 25 hours a week during the summer.

A May 25, 2008 tornado demolished Pizza Ranch. This business has not reopened. As a result, the claimant has not worked since May 25, 2008.

**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).

An individual is "totally unemployed" in a week during which he performs no services. "Partially unemployed" is defined as "a week during which the individual performs less than the customary full-time services, 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)(1).

The Department previously determined the claimant was eligible to receive DUA benefits because he became an unemployed worker when the business that he worked was destroyed. The business, Pizza Ranch, has not reopened.

The basis for the current disqualification appears to be based on the fact the claimant goes to high school. No one from the Department participated in the hearing. Therefore, it is not known on what basis the representative made the October 13 decision. The reasoning in the representative's October 13, 2008 decision is not correct because the claimant has not returned to work and the business where he worked remains closed. If the decision was based on the fact the claimant goes to school, he previously worked while in school and does not now because the business remains closed.

Based on the facts in this case, of September 20, 2008, the claimant has not returned to his normal employment. Therefore, as of September 20, 2008, he remains eligible to DUA benefits.

**DECISION:**

The DUA decision dated October 13, 2008, is reversed. The claimant remains unemployed and the employer he had been working, Pizza Ranch, remains closed as the result of a May 25, 2008 tornado. Therefore, as of September 20, 2008, the claimant remains eligible to receive DUA benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css