

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BURTON R MOORE
Claimant

APPEAL NO. 08A-DUA-00015-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**FEDERAL UNIT
ADMINISTRATIVE OFFICE**

**OC: 05/25/08 R: 04
Claimant: Appellant (2)**

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 25, 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 20, 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 14, 2008, with an effective date of May 25, 2008. The claimant is a self-employed farmer. The claimant has a 300-acre farm in Buchanan County, Iowa, which was declared a major disaster area. He raises corn and soybeans on the farm. A tornado struck the area on May 25, 2008, destroying the claimant's buildings and equipment, sparing only his home. As a result of that damage, he was unable to perform his normal field work. After approximately July 12, 2008, conditions had sufficiently improved that the claimant was able to resume his customary hours of work on his farm.

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 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, 2008 and July 12, 2008, provided he is otherwise eligible.

DECISION:

The DUA decision dated July 25, 2008, is reversed. The claimant is eligible to receive DUA benefits for the period between May 25, 2008 and July 12, 2008, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs