

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN G STOCKDALE
Claimant

APPEAL NO. 08A-DUA-00041-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEDERAL UNIT
ADMINISTRATIVE OFFICE

OC: 01/14/07 R: 03
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 September 24, 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 October 14, 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 6, 2008, with an effective date of May 25, 2008. The claimant is a self-employed realtor and appraiser. The claimant has a real estate and appraisal business in Butler County, Iowa, which was declared a major disaster area. Claimant sells real estate and performs real estate appraisals. In a normal year, the claimant would be working an average of 50 hours per week in the self employment. Claimant's primary real estate market is Parkersburg Iowa which was hit by a tornado. The city lost about 30% of its homes. Claimant's ability to work in the real estate business dropped to about eight hours a week from July 6, 2008 through September 6, 2008. Claimant's ability to work in the real estate business dropped to about one hour a week from September 7, 2008 through October 14, 2008. The diminution in work was the direct result of the tornado and inclement weather which hit claimant's principal source of real estate business. Claimant suffered a significant loss in the ability to perform work in his self-employment business.

As of July 5, 2008, the claimant was not able to perform his customary full-time hours in self-employment due to the weather conditions and after effects. The extent of the disaster has caused and will cause the claimant to work substantially less than his customary full-time hours throughout the year of 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).

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 suffered substantial damage to his real estate business and caused a substantial reduction in his customary work hours. The claimant has established that he is totally or partially unemployed due to the disaster. The claimant is eligible to receive DUA benefits as of the effective date of his claim and continuing until he is no longer unemployed due to the disaster, provided he is otherwise qualified.

DECISION:

The DUA decision dated September 24, 2008, is reversed. The claimant is eligible to receive DUA benefits, provided he is otherwise qualified.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs