

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**ANN C DIEMER  
620 E 16<sup>TH</sup> ST APT 5  
DES MOINES IA 50316-3550**

**BIG LOTS STORES INC  
C/o JON JAY ASSOCIATES  
PO BOX 182523  
COLUMBUS OH 43218-2523**

**Appeal Number: 06A-UI-01484-AT  
OC: 01/15/06 R: 02  
Claimant: Appellant (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-5 – Severance Pay

STATEMENT OF THE CASE:

Ann C. Diemer filed a timely appeal from an unemployment insurance decision dated February 7, 2006, reference 02, which denied benefits for the five weeks ending February 25, 2006, upon a finding that she was entitled to receive severance pay for the weeks in question. Before a hearing could be scheduled, the agency issued a subsequent fact-finding decision granting the relief requested by the claimant. Under these circumstances, no hearing is required.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: In connection with her separation from employment with Big Lots Stores, Inc., Ann C. Diemer received "stay pay" rather than severance pay.

REASONING AND CONCLUSIONS OF LAW:

The question is whether benefits must be withheld for the five weeks ending February 25, 2006. They need not be withheld. Provisions of the Iowa Administrative Code make it clear that stay pay is not treated as severance pay and is not deductible from unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated February 7, 2006, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits for the five weeks ending February 25, 2006, provided she is otherwise eligible.

kjf/kjw