

Information for Appeals Tribunal Hearings

Unemployment Insurance



If you have additional questions
after reading this pamphlet,
please contact the
Appeals Tribunal at
573-751-3913.

Division of Employment Security



PLEASE READ THIS PAMPHLET CAREFULLY. It contains important information regarding the appeals process.

PURPOSE OF HEARING

The purpose of the hearing is to allow the parties to present evidence to show that the determination made by the Division of Employment Security is right or wrong.

IMPORTANCE OF HEARING

The hearing before the Appeals Tribunal may be the **ONLY** opportunity a party will have to present evidence.

The Appeals Tribunal must decide the appeal using only the evidence presented at the hearing. For that reason, the Appeals Tribunal cannot discuss the facts of the case with you before or after the hearing.

ATTENDANCE AT THE HEARING

If you filed the appeal and do not participate in the hearing, your appeal will be dismissed.

If you did not file the appeal and do not participate in the hearing, your evidence will not be considered in the decision. The decision in the case will be based on the evidence presented at the hearing by the other party.

NOTICE OF HEARING

Notice of the hearing is mailed to each interested party at least seven

days before the hearing. **READ THE NOTICE CAREFULLY.** Hearings held by telephone will require you to make special preparations. Telephone hearing notices have special instructions printed on the back of the notice that you **MUST** follow.

A copy of the file regarding your case will be mailed with the notice of hearing and will be made an exhibit at the hearing. You must have this with you at the time the hearing is held.

PREPARATION FOR HEARING

You should begin preparing for the hearing immediately after you file your appeal.

If you have received notice that an appeal has been filed by another party, begin preparing for the hearing immediately.

The Appeals Tribunal will not postpone a hearing because a party is not prepared, except in extraordinary circumstances.

Preparation should include arranging for necessary witnesses and gathering documents or other materials which you believe support your case. If you expect to be represented by an attorney at the hearing, you must make arrangements with that attorney to enter an appearance with the Appeals Tribunal. If you expect to be represented by an agent, officer, or managerial employee, you must immediately notify that person of his/her responsibility so he/she may begin to prepare.

Parties should be prepared to present firsthand evidence to prove the facts,

which are believed to be true. Individuals who have personal knowledge of the circumstances surrounding the issue should testify. No one should rely on hearsay to prove a fact. No one should rely on what previously has been presented to the Division of Employment Security or any other state or federal agency to prove the case before the Appeals Tribunal.

Upon receiving a written request for information or documents from the appeal file, any party, an attorney representing a party, or the claimant's agent will be provided with such material by the Appeals Section in Jefferson City. Your request should be directed to the Appeals Tribunal at the address on the back of this pamphlet. There may be a fee for the documents.

You must arrange for all witnesses to be available for the hearing at the time the hearing is to begin. A witness should be someone who saw or heard something that is important in proving a fact. It is not necessary to have many witnesses repeat the same testimony. Before the hearing begins, you must identify each witness who may participate in the hearing.

Subpoenas may be granted to a party to a hearing. A subpoena is granted to force the participation of a witness who has refused to participate otherwise or to force a party to produce documents. You are responsible for having subpoenas served. You must make a written request for subpoenas in sufficient time to allow for their preparation, their return to you, and your delivery to your witness or the party being subpoenaed for documents.

There will be very little time for this process after you receive notice of the hearing. **YOU MUST ACT QUICKLY.** Mail or fax your request to the address in the lower left hand corner of your notice to the attention of the referee assigned to the hearing. Your request **MUST INCLUDE** the witness's name or documents, address where the subpoena is to be served, and a specific statement of what the witness's testimony or documents will prove. You also must state that you have asked the witness to testify or requested the documents and that your request has been refused.

REPRESENTATION

A claimant may represent himself/herself or may be represented by an authorized agent who is competent to act in his/her own behalf and who is not paid for the service provided.

An employer may be represented by himself/herself, any individual who is a partner in a partnership, an officer of a corporation, or a full-time managerial employee of the party.

An authorized agent, officer, or managerial employee acting as a representative for a party should begin preparing for the hearing immediately upon notice that an appeal has been filed.

Any interested party may be represented in any proceeding before the Appeals Tribunal or the Labor and Industrial Relations Commission by an attorney licensed to practice law in Missouri. The Appeals Tribunal cannot and will not

advise any party as to whether the party should be represented by an attorney.

POSTPONEMENTS

Every effort should be made to participate in the hearing when it is scheduled. If a postponement becomes absolutely necessary, you must make your request of the presiding Appeals Tribunal by telephone or fax at the earliest possible moment. You must explain in detail your reason for requesting a postponement. A written postponement request may not arrive in time for it to be acted upon by the Appeals Tribunal.

You cannot presume a postponement has been granted just because you have requested one. A postponement has not been granted until the parties have been advised of the granting by the Appeals Tribunal.

GENERAL PROCEDURES

Every hearing is tape-recorded. At the beginning of the hearing, the Appeals Tribunal will state the issue involved, cite the law which applies to the case, and explain the order in which the hearing will proceed.

All testimony is given under oath or affirmation. Although the rules of evidence are not strictly enforced, the hearing record must contain legally competent evidence to support findings of fact and the decision. The Appeals Tribunal may help both the claimant and the employer present their cases. The Appeals Tribunal has the right to

question all witnesses. The claimant or the claimant's representative may question the employer and/or the employer's witnesses. The employer, when the employer is a party, or its representative may question the claimant and/or the claimant's witnesses. Each party will have an opportunity for a summary statement prior to the conclusion of the hearing.

TELEPHONE CONFERENCE HEARINGS

A party has an absolute right to an in-person hearing rather than a telephone conference hearing. The party requesting the in-person hearing will need to travel to one of the four current hearing locations. Granting a party's request for an in-person hearing does not guarantee that the opposing party also will be required to appear in person.

If your hearing is set for a telephone conference, it is important that you make final preparation for the presentation of your case immediately after receiving the notice of hearing.

You must have access to a telephone to use for the hearing. You are encouraged to have each witness testify from a separate phone or extension. Witnesses will not be allowed together in the same room while testimony is being given.

USE OF A CELL PHONE IS DISCOURAGED. You should **NOT** use a cell phone, speakerphone, or cordless phone **unless** you absolutely have no other choice. If during the hearing, the cell phone or battery-powered telephone you

have chosen to use fails, due to location, power failure, or any other reason, that will be the end of your testimony. You will not be recalled for the hearing, a continuance will not be granted, and any testimony lost due to that failure will not be considered.

Unless your telephone number appears on the notice of telephone hearing, you must call the toll free telephone number provided on the notice of telephone hearing to inform the Appeals Tribunal of the correct telephone number where you will be at the time of the hearing. You must be at that number at the time of the hearing. The telephone must not be in use at the time of the hearing. Failure to answer the Appeals Tribunal's call or to be at the reported telephone number will result in the dismissal of your appeal or the forfeiture of your right to participate in the hearing. If you have privacy manager on your telephone, you must disable it the day of the hearing. If your telephone access is blocked by you when the Appeals Tribunal calls, your appeal may be dismissed or the hearing will go on without you.

You also must inform the Appeals Tribunal of the telephone number of each of the witnesses who have agreed to testify on your behalf. You should inform witnesses that they will not be called until it is time for their testimony and that it will be necessary for each of them to remain at his/her telephone for at least 45 minutes after the scheduled time of the hearing awaiting their call. Testimony cannot be taken from a witness who is

not at his/her telephone at the time the Appeals Tribunal calls.

Exhibits for telephone hearings.

If you intend to present exhibits in a telephone hearing you **MUST** mail, fax, or otherwise deliver one copy to the opposing party and one copy to the Appeals Tribunal early enough to assure receipt by the time of the hearing. Postponements or continuances will not be granted because exhibits were not received by the opposing party or the Appeals Tribunal except in extraordinary circumstances.

NO PARTY OR WITNESS WILL BE ALLOWED TO TESTIFY FROM RECORDS unless copies of the records to be used have been mailed, faxed, or otherwise delivered to the opposing party and the Appeals Tribunal and received by the time of the hearing.

IN-PERSON HEARINGS

If the hearing is set for you to appear in person, you must arrange for all your evidence to be presented at the hearing site. You must have all your witnesses present at the time of the hearing.

DO NOT bring young children to the hearing with you.

Exhibits for in-person hearings.

If you intend to present exhibits at an in-person hearing, you must take the original and two copies of each exhibit to the hearing with you.

AUDIO/VIDEO EXHIBITS

If you plan to present audio or video exhibits in a hearing, contact the Appeals Tribunal **immediately**. You will be given special instructions regarding your responsibilities.

AFTER THE HEARING

After the hearing is concluded and after the Appeals Tribunal has had time to thoroughly consider the evidence that was presented at the hearing, a written decision will be prepared. The decision will be mailed to each party from Jefferson City.

The Appeals Tribunal's decision may be reviewed by the Labor and Industrial Relations Commission upon application by a party. An application for review by the Commission must be filed within 30 days after the date of mailing of the Appeals Tribunal's decision.

NOTICE TO CLAIMANTS

If you still are unemployed, continue to file your claim each week. Any past weeks you claim after the hearing is over will be considered late. You may be ineligible for benefits that you claim late. If you filed the appeal with the Appeals Tribunal and do not participate in the hearing, your appeal will be dismissed.

If you were allowed benefits and your past employer filed an appeal, you must participate in the hearing so that your evidence will be considered. If the Appeals Tribunal reverses a determination which

allowed you to be paid benefits, an overpayment will be established and you will be expected to repay the benefits you received to the Division of Employment Security.

NOTICE TO EMPLOYERS

If the employer filed a timely written protest against the allowance of benefits, the employer is a party to the issues raised in the appeal. Employers who are parties will be mailed a copy of the Appeals Tribunal's decision and may apply for review of the decision with the Labor and Industrial Relations Commission.

If the employer did not file a timely protest, the employer may not be a party. An employer who is not a party will not be mailed a notice of hearing, a copy of the Appeals Tribunal's decision, and may not apply for review.

A complimentary copy of the Appeals Tribunal's decision will be available by request. Such request must be in writing and addressed to the Appeals Section at the address on the back of this pamphlet.

ADDRESSES

It is the parties' responsibility to keep their address current with the Appeals Tribunal. If your address is not kept current, you may not receive all information needed to complete the appeals process.

ADDITIONAL INFORMATION

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, notify us at the address or telephone number below as soon as you are aware that an appeal has been filed.

If you have additional questions regarding your hearing or the hearing procedure, please contact:

Appeals Tribunal
Division of Employment Security
P.O. Box 59
Jefferson City, MO 65104-0059
Telephone: 573-751-3913
Fax: 573-751-5620

Please include your Social Security Number and your Appeal Number, if known, on all correspondence.

Relay Missouri

If calling by home phone or cell phone, dial "711." All other callers should dial 800-735-2966.

Additional information about the appeals process can be found at:
<http://www.labor.mo.gov/es/appeals>