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ARKANSAS BOARD OF REVIEW  
REGULATIONS GOVERNING EMPLOYMENT SECURITY  
APPEALS BEFORE THE APPEAL TRIBUNAL AND  
THE BOARD OF REVIEW

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 1963

Circuit Clerk and Ex-Officio Recorder  
of \_\_\_\_\_ County, Arkansas

BOARD MEMBERS:

Sam Rorex, Chairman  
Floyd Sharp, Member  
V. H. Williams, Member

BOARD OF REVIEW  
~~ROOM 215, 1515 WEST SEVENTH~~  
LITTLE ROCK, ARKANSAS

*Capital Hill  
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ARKANSAS  
BOARD OF REVIEW  
REGULATIONS GOVERNING APPEALS

The Board of Review, in accordance with Arkansas Statute 81--1107 (d) (4), prescribes the following regulations.

REGULATION I

A. APPEAL TO APPEAL TRIBUNAL

(1) Appeals from the determination or redetermination of the Commissioner shall be heard and decided by an appeal tribunal consisting of a referee appointed in accordance with Section 11 (d) of the Arkansas Employment Security Act; provided, that if there is pending an appeal or appeals which, in the opinion of the referee, should be heard by a tribunal consisting of three members, the referee shall so notify the Board of Review and the Board shall appoint the other two members, one of whom must be a representative of employers and the other a representative of employees, the referee serving as chairman; provided further, that if either of the representatives so appointed is absent or disqualified, the appeal shall be heard and decided by the referee alone, or in his discretion, postponed until such time as the absent or disqualified member can be present or replaced.

B. APPEAL TO APPEAL TRIBUNAL

(1) An appeal may be filed by mail or in person by the party appealing from a determination or redetermination or order of the Commissioner at any office of the Employment Security Division within

fifteen (15) days after the date of mailing of notice of such determination or redetermination to his last known address. An appeal can best be filed by the party by filing with the local office where the claim originated on the approved form in writing, setting forth the information required thereon.

(2) Upon the scheduling of a hearing on an appeal, as soon as possible after the receipt of the appeal by the referee, notices of hearing on the approved form, which must specify the time and place of the hearing, shall be mailed at least five (5) days before the hearing to the claimant and other parties interested in the determination or redetermination or order of the Commissioner which is being appealed.

#### C. DISQUALIFICATION OF MEMBERS OF APPEAL TRIBUNALS

(1) No member of an appeal tribunal shall participate in the hearing of an appeal in which he has an interest. Challenges to the tribunal may be heard and decided by the chairman of the appeal tribunal or, in his discretion, may be referred to the Board of Review. Challenges to the interests of the tribunal shall be heard and decided by the Board of Review.

#### D. HEARING OF APPEAL

(1) All hearings shall be conducted informally and in such manner as to ascertain the substantial rights of the interested parties. All relevant issues may be considered and passed on, whether or not such issues were stated as the basis for appealing. The claimant and any other party to an appeal before an appeal tribunal may present such evidence as may be pertinent. The tribunal shall be the judge as to whether or not

any evidence is pertinent. An appeal tribunal may examine any party appearing before it. The appeal tribunal, with or without notice to the parties, may secure such evidence as it deems necessary but the interested parties shall be afforded an opportunity to examine and rebut such evidence.

(2) The parties to an appeal, with the consent and approval of the appeal tribunal, may stipulate in writing as to the facts involved. The appeal tribunal may decide the appeal on the basis of such stipulation or, in its discretion, may take such further evidence as it deems necessary to enable it to determine the question on appeal.

(3) When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering all such claims may be fixed, the hearing thereon jointly conducted, a single record of the proceedings made, and the evidence introduced with respect to one proceeding considered as introduced in the other; provided that, in the judgment of the tribunal, such consolidation would not be prejudicial to any of the parties.

#### E. ADJOURNMENT OF HEARING

(1) If the appellant in an appeal before an appeal tribunal fails to appear or to notify the appeal tribunal requesting a continuance or postponement of the hearing, said appeal may be dismissed.

(2) In the discretion of the referee, a hearing may be adjourned, continued or re-set in order to procure all necessary evidence and to be fair to all parties.

F. DECISIONS ON APPEALS

(1) Following the conclusions of hearings, the appeal tribunal shall without undue delay render and issue its decisions. The decisions shall be in writing and shall set forth the tribunal's findings of fact, decision and reasons therefor, and shall be signed by the hearing officer.

(2) Copies of all decisions shall be mailed or delivered by the tribunal to the claimant, to all other interested parties, to the Employment Security Division of the State Department of Labor and to the Board of Review.

REGULATION II

APPEALS TO BOARD OF REVIEW

A. BOARD OF REVIEW

(1) The Board of Review shall consist of three (3) members appointed by the Governor, one of whom shall be designated by the Governor as chairman and serve as a full time salaried official. This member shall be a representative of the public. Of the other two members, one shall be a representative of employers and one a representative of employees.

(2) The Chairman of the Board may determine any matter pending before the Board unless an interested party requests in writing that a determination be made by the full Board. A decision or determination made by the Chairman of the Board of Review shall have the same force and effect as if made and rendered by the full Board. When a request has been received for a full Board determination, the Chairman shall notify the other members of the Board of the time and place of a meeting of the full Board to make a determination on the appeal and require their attendance, and in no event shall any determination be made in the absence of one of the three members, except that thereafter, by agreement of the parties, the cause may be determined by the Chairman alone.

(3) The claimant or any other party entitled to notice of the decision of an appeal tribunal, or the determination of a special examiner, may within fifteen (15) calendar days after the date of mailing of the notice to his last known address, or if such notice is not mailed, within fifteen (15) calendar days after the delivery of such notice, petition the Board of Review for review if he is dissatisfied with the determination of such special examiner or the decision of an appeal tribunal.

Saturdays, Sundays and holidays are included in computing the fifteen (15) calendar days unless they fall on the last day of appeal time, in which case, the next following business day shall be counted as the last day.

(4) The Board of Review, or the Chairman thereof, may on its or his own motion within fifteen (15) calendar days after the delivery or mailing of the decision of an appeal tribunal or the determination of a special examiner, initiate a review of such decision or determination.

#### B. HOW AND WHERE APPEAL FILED

(1) Appeals taken as a matter of right, as set out above, may be filed by mail or in person at any office of the Employment Security Division. An appeal can best be filed by the party calling at the local office where the claim originated and filing a notice of appeal on the approved form in writing, setting forth the information requested thereon.

(2) Petition for review, as set out in Section A, shall be filed on the approved form in the same manner as in (1) above.

(3) Upon the scheduling of a hearing held for the Board of Review on an appeal, notices of hearings on the approved form shall be mailed to the claimant and all other interested parties at least five (5) days before the date of hearing, such notices specifying the time and place of hearing.

#### C. HEARING OF APPEAL

(1) Upon review, the Board of Review, or the Chairman thereof, may on the basis of the evidence previously submitted, or upon the basis of such additional evidence as it or he may direct be taken, affirm, modify

or reverse the findings and conclusions of an appeal tribunal or a special examiner.

(2) In reviewing an appeal on the record, the Board of Review, or the Chairman thereof, may limit the parties to the filing of written argument. If, in the discretion of the Board, or the Chairman thereof, additional evidence is necessary to entitle it or him to determine the appeal, the matter shall be remanded to the appeal tribunal for the taking of additional testimony. The parties shall be notified of the time and place such evidence is to be taken, as provided in Section B (3) of these Regulations. Any party to any proceeding in which testimony is taken may present such evidence as may be pertinent to the issue on which the Board or Chairman directs the taking of evidence.

(3) The Board of Review, or the Chairman thereof, may remand to an appeal tribunal any benefits appeal for the taking of such additional testimony or evidence as may be deemed necessary. Such testimony and evidence shall be taken by the appeal tribunal in the manner prescribed for the conduct of hearings on appeals before the appeal tribunal. Upon completion of the taking of evidence by the appeal tribunal, pursuant to direction of the Board of Review, or the Chairman thereof, the claim or the issue involved in such claim shall be returned to the Board of Review with recommendations for any change in a decision thereon.

#### D. DECISIONS ON APPEALS

(1) Following a review of the evidence, the Board of Review, or the Chairman thereof, shall without undue delay render its or his decision, which shall be in writing, setting forth the findings of fact, decision



and reasons therefor, and shall be signed by the members of the Board of Review, or the Chairman thereof.

(2) If any decision of the Board is not unanimous, the decision of the majority shall control. The minority may file a dissenting opinion which shall set forth the reasons why it fails to agree with the majority.

(3) Copies of all decisions and the reasons therefor shall be mailed or delivered by the Board of Review to the appellant, all other interested parties, the Employment Security Division of the State Department of Labor and the Appeal Tribunal.

### REGULATION III

#### APPEALS TO APPEAL TRIBUNAL OR BOARD OF REVIEW

##### A. NOTICE OF HEARINGS AND DECISIONS

(1) Notice shall be given of all hearings on appealed claims and decisions thereon to the following: the claimant, the last employing unit, the Employment Security Division of the Department of Labor, and any other interested party.

##### B. ISSUANCE OF SUBPOENAS

(1) Subpoenas to compel the attendance of witnesses and the production of records for any hearing of an appeal, unless issued by the Commissioner, the Board of Review, or the Chairman of an appeal tribunal, upon their own motion, shall be issued only upon a showing of a necessity therefor by the party applying for issuance of the subpoena, such application to be made on the approved form showing the materiality of the testimony to be entered by each witness requested to be subpoenaed. Such subpoena requested by an interested party shall be delivered to said party for the service thereof.

##### C. REPRESENTATION BEFORE APPEALS TRIBUNALS AND THE BOARD OF REVIEW

(1) Any party may be represented before an Appeal Tribunal, Board of Review, or the Chairman thereof, by an attorney at law who has been admitted to practice before the Supreme Court of the State of Arkansas, or before the highest court of any state or territory of the United States, or by any other duly authorized agent.

(2) The Board of Review, or the Chairman thereof, or an Appeal Tribunal, in its or his discretion, may refuse to allow any person to



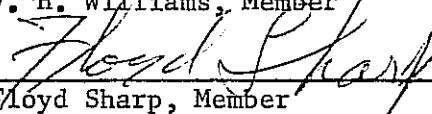
represent others in any proceeding before it or him who is found to be guilty of unethical conduct, or who intentionally and repeatedly fails to observe the provisions of the Arkansas Employment Security Law or the Regulations of the Board of Review.

(3) Any fee charged a claimant by any attorney, agent or other person employed to represent him at a hearing before an appeal tribunal, the Board of Review, or the Chairman thereof, shall be limited to an amount approved by the Board or the Chairman of the Board.

D. WITHDRAWAL OF APPEAL

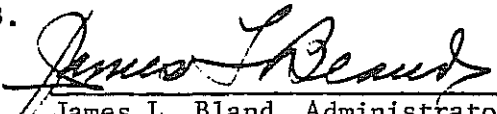
(1) An appeal may be withdrawn by an appellant, provided, however, that the withdrawal of any appeal, whether by motion, stipulation or otherwise, shall always be within the discretion of the appeal tribunal, the Board of Review, or the Chairman thereof, before whom the appeal is pending, and subject to its or his approval.

Adopted by the Board of Review  
this \_\_\_\_ day of \_\_\_\_\_, 1963.

  
\_\_\_\_\_  
Sam Rorex, Chairman  
  
\_\_\_\_\_  
V. H. Williams, Member  
  
\_\_\_\_\_  
Floyd Sharp, Member

I hereby certify that the foregoing is a true and correct copy of Regulations I, II and III of the Arkansas Board of Review, effective

\_\_\_\_\_, 1963.

  
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James L. Bland, Administrator  
Employment Security Division

