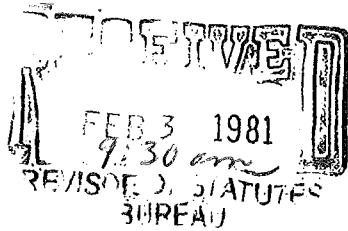


LIRC 164



STATE OF WISCONSIN )  
 ) SS  
LABOR AND INDUSTRY REVIEW COMMISSION )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Virginia B. Hart, Chairman of the Labor and Industry Review Commission and custodian of the official records of said Commission to hereby certify that the annexed rules relating to the programs and procedures of the Labor and Industry Review Commission were duly approved and adopted by this Commission on January 20, 1981.

I further certify that said copy has been compared by me with the original on file in this Commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Labor and Industry Review Commission at 201 East Washington Avenue in the city of Madison, this 2nd day of February, 1981.

Virginia B. Hart  
Virginia B. Hart



4-1-81

## ORDER OF THE LABOR AND INDUSTRY REVIEW COMMISSION

Relating to procedural rules concerning the petition to and handling by the labor and industry review commission of cases arising under ss. 56.07(7), 56.21, 66.191, 101.22, 101.223(4), 102, 108 and 111.36, Stats.

### ANALYSIS PREPARED BY LABOR AND INDUSTRY REVIEW COMMISSION

The rules of the commission are procedural only and do not require a public hearing.

LIRC chapter 1 contains general procedural rules applicable to all cases within the jurisdiction of the commission. They refer to the timely filing of petitions for review to the commission, the granting by the commission of oral argument on any individual case, and the general basis of review by the commission.

LIRC chapter 2 contains rules relating to disputed unemployment compensation claims arising under chapter 108 of the Wisconsin Statutes. They cover the timely filing of petitions for commission review of benefit claims under s. 108.09, Stats., and other than benefit claims under s. 108.10, Stats.; the securing of hearing tapes and transcripts of testimony at hearings conducted by hearing examiners; the filing of briefs with the commission and the appeal for judicial review of any commission decision.

LIRC chapter 3 contains rules relating to claims arising under s. 56.07(7), Stats., (injury to an inmate of a reforestation camp); s. 56.21, Stats., (injury to an inmate of a state institution); s. 66.191, Stats., (special death and disability benefits for certain public employees subject to Wisconsin Retirement Act); and 102 (worker's compensation). They cover the timely filing of petitions for commission review; the procedure followed in case the commission sets aside the findings or order of the hearing examiner; the filing of briefs with the commission; the securing of transcripts of testimony at hearings conducted by hearing examiners; the statutory authority for petitions other than regular worker's compensation claims; the statutory authority on compromise settlements of worker's compensation claims; and the appeal for judicial review of any commission decision.

LIRC chapter 4 contains rules relating to complaints filed under s. 101.22(4p), Stats., (discrimination in housing); s. 101.223(4), Stats., (discrimination in post secondary education or developmental disability); and s. 111.36, Stats., (discrimination in employment and other opportunities). They cover the timely filing of petitions for commission review, the filing of briefs with the commission; the securing of transcripts of the testimony at hearings conducted by hearing examiners; and the appeal for judicial review of any commission decision.

Pursuant to authority vested in the labor and industry review commission by s. 101.04(2), Stats., the labor and industry review commission hereby adopts procedural rules interpreting ss. 56.07(7), 56.21, 66.191, 101.22(4p), 101.223(4), chapters 102 and 108, and s. 111.36, Stats., as follows:

Sections LIRC 1, 2, 3 and 4 of the Wisconsin Administrative Code are adopted to read:

## Chapter LIRC 1

### GENERAL

LIRC 1.01 General. The labor and industry review commission has jurisdiction for review of cases arising under ss. 56.07(7), 56.21, 66.191, 101.22, 101.223(4), 102, 108 and 111.36, Stats.

LIRC 1.02 Petitions. All petitions for commission review shall be received within the statutory appeal period provided in each individual program within the commission's jurisdiction. "Received" means physical receipt. A mailed petition postmarked on or prior to the last day of an appeal period but received on a subsequent day is not a timely appeal. All petitions or appeals shall be in writing.

LIRC 1.03 Review. Review by the commission is on the record of the case including the synopsis or summary of the testimony or other evidence presented at the hearing as prepared by the department of industry, labor and human relations' hearing examiner who presided at the hearing. Consideration of the hearing tapes or a transcript of the hearing testimony is discretionary with the commission.

LIRC 1.04 Hearings. The commission does not conduct or hold hearings. If the record in an individual case is inadequate, the commission may in its discretion remand the case to the department of industry, labor and human relations to act as deputy on behalf of the commission.

LIRC 1.05 Oral argument. Oral argument before the commission is not considered necessary since the commission review is on the basis of the record, since the parties have the right to file briefs with the commission, and since the granting of oral argument unnecessarily delays the timely disposition of appeals by the commission. However, a request for oral argument may be granted if the commission determines in its discretion that an issue or question would be more clearly presented by oral argument. Any written request for oral argument shall be granted or denied in writing by the commission.

## Chapter LIRC 2

### UNEMPLOYMENT COMPENSATION

LIRC 2.01 Benefit claims. (1) A petition for commission review of an appeal tribunal decision under s. 108.09, Stats., shall be received within 14 days after the date of mailing of the decision to the parties and during regular office hours by an employe of the job service division, department of industry, labor and human relations at:

(a) any job service office, or

(b) a hearing office of the job service division, or

(c) the central administrative office of the department, room 325, 201 East Washington Avenue, Madison, Wisconsin 53707.

(2) In the case of an interstate claimant by one of the above or by a qualified employe of the agent state in which the interstate claimant files claim.

(3) If the 14th day falls on a Saturday, Sunday or legal holiday, the filing (receipt) may be on the next succeeding business day.

LIRC 2.02 Other than benefit claims. (1) A petition for commission review of an appeal tribunal decision under s. 108.10, Stats., shall be received within 20 days after the date of mailing the decision to the parties and during regular office hours by an employe of the job service division, department of industry, labor and human relations at:

- (a) any job service office, or
- (b) a hearing office of the job service division, or
- (c) the central administrative office of the department, room 325, 201 East Washington Avenue, Madison, Wisconsin 53707.

(2) If the 20th day falls on a Saturday, Sunday or legal holiday, the filing (receipt) may be on the next succeeding business day.

LIRC 2.03 Hearing tapes. Copies of hearing tapes may be requested and obtained according to s. 108.09(5), Stats., from the job service division, department of industry, labor and human relations, room 325, 201 East Washington Avenue, Madison, Wisconsin 53707.

LIRC 2.04 Transcripts. Copies of transcripts may be requested and obtained according to s. 108.09(5), Stats., from the labor and industry review commission, room 453, 201 East Washington Avenue, P. O. Box 8126, Madison, Wisconsin 53708.

LIRC 2.05 Briefs. Upon request the commission shall establish a briefing schedule, and each party may file with the commission briefs or memoranda within the time limits of the briefing schedule.

LIRC 2.06 Judicial review. Judicial review of any commission decision under either s. 108.09 or 108.10, Stats., shall be commenced in the manner and upon the grounds specified in s. 108.09(7), Stats., and not under chapter 227 or s. 801.02, Stats. Service of the summons and complaint shall be made upon a commissioner or agent authorized by the commission to accept service. Service may be made at room 453, 201 East Washington Avenue, P. O. Box 8126, Madison, Wisconsin 53708. The labor and industry review commission and the adverse party shall be made defendants. The adverse party is the one in whose favor the commission's decision was made.

### Chapter LIRC 3

#### WORKER'S COMPENSATION

LIRC 3.01 Petitions. (1) A petition for commission review of the findings or order of a department of industry, labor and human relations' hearing examiner shall be filed (received)

within 20 days from the date of mailing of the findings and order to the parties and during regular office hours by an employe of either the worker's compensation division or job service division of the department at:

(a) the central administrative office of the worker's compensation division, room 152, 201 East Washington Avenue, Madison, Wisconsin 53707, or

(b) the worker's compensation division, room 390, 819 North Sixth Street, Milwaukee, Wisconsin 53203, or

(c) any job service office.

(2) If the 20th day falls on a Saturday, Sunday, or legal holiday, the filing (receipt) may be on the next succeeding business day.

LIRC 3.02 Set aside. If the commission sets aside the findings and order of the hearing examiner, it shall forthwith notify the opposing party who shall have 10 days from the date of notice in which to make an answer. The commission may extend the time for filing answer for another 10 days if it is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings and order.

LIRC 3.03 Briefs. One brief may be filed by each party with its petition or answer but not thereafter unless permitted by the commission.

LIRC 3.04 Transcripts. Transcripts of testimony at hearings conducted by hearing examiners of the worker's compensation division, department of industry, labor and human relations, may be requested and obtained from the worker's compensation division of the department, according to s. Ind 80.14, Wis. Adm. Code. Under s. Ind 80.19(1)(d), Wis. Adm. Code, the commission may direct the preparation of a transcript if a satisfactory showing is made by any party that the synopsis of testimony prepared by the hearing examiner of the department of industry, labor and human relations is not sufficiently complete and accurate to reflect the relevant and material testimony and other evidence taken.

LIRC 3.05 Other petitions. The provision of s. 102.18, Stats., shall apply to all petitions to the commission under ss. 56.07(7), 56.21 and 66.191, Stats.

LIRC 3.06 Compromise settlements. Compromise settlements of worker's compensation claims are solely within the jurisdiction of the worker's compensation division, department of industry, labor and human relations, according to s. 102.16, Stats., and s. Ind 80.03, Wis. Adm. Code.

LIRC 3.07 Judicial review. Judicial review of any commission decision shall be commenced in the manner and upon the grounds specified in s. 102.23, Stats., and not under chapter 227 or s. 801.02, Stats. Service of the summons and complaint shall be made upon a commissioner or agent authorized by the commission to accept service. Service may be made at room 453, 201 East Washington Avenue, P. O. Box 8126, Madison, Wisconsin 53708. The labor and industry review commission and the adverse party shall be made defendants. The adverse party is the one in whose favor the commission's order or award was made.

#### Chapter LIRC 4

#### EQUAL RIGHTS AND FAIR HOUSING

LIRC 4.01 Petitions. (1) A petition for commission review of the findings and order of a department of industry, labor and human relations' hearing examiner shall be filed (received) within 20 days from the date of mailing of the findings and order to the parties and during regular office hours by an employe of the equal rights division of the department at:

(a) the equal rights division, room 230, 819 North Sixth Street, Milwaukee, Wisconsin 53203, or

(b) the central administrative office of the equal rights division, room 402, 201 East Washington Avenue, Madison, Wisconsin 53707.

(2) If the 20th day falls on a Saturday, Sunday or legal holiday the filing (receipt) may be on the next succeeding business day.

LIRC 4.02 Briefs. Upon request the commission shall determine and transmit a briefing schedule to the parties. Extensions of time for filing briefs shall be by prior approval of the commission and shall be granted upon establishment of a valid reason that the existing briefing schedule is prejudicial to the rights of the party or parties. Extensions negotiated by and between the parties shall be approved by the commission.

LIRC 4.03 Transcripts. Transcripts of the testimony at hearings before department hearing examiners may be obtained according to s. Ind 88.075, Wis. Adm. Code.

LIRC 4.04 Judicial review. Judicial review of any commission order or decision shall be commenced in the manner and upon the grounds specified in ss. 227.15 to 227.20, Stats.

LIRC 4.05 Parties. Complainants and Respondents whose names and addresses appear in the caption of a commission decision shall be considered parties for purposes of judicial review of such decision.

There is no fiscal impact by these procedural rules either initially or during the biennium on either the labor and industry review commission or any other state or governmental agency.

The rules contained in this order shall take effect, as provided in s. 227.026, Stats., on the first day of the month following publication in the Wisconsin Administrative Register.

Dated: January 20, 1981

LABOR AND INDUSTRY REVIEW COMMISSION

Virginia B. Hart  
Virginia B. Hart, Chairman

John R. Hayon  
John R. Hayon, Commissioner