

Chapter LIRC 2

UNEMPLOYMENT COMPENSATION

LIRC 2.01 Petitions for commission review.
LIRC 2.015 Timeliness of petitions.
LIRC 2.03 Hearing tapes.

LIRC 2.04 Transcripts.
LIRC 2.05 Actions for judicial review.

LIRC 2.01 Petitions for commission review. (1) A petition for commission review of an appeal tribunal decision under s. 108.09 or 108.10, Stats., shall be postmarked or received within 21 days after the date of mailing of the decision to the parties.

(2) Petitions shall be filed as follows:

(a) With the division of unemployment insurance, department of workforce development, or the commission, at:

1. A hearing office of the division of unemployment insurance; or
2. The central administrative office of the department, bureau of legal affairs, division of unemployment insurance, P.O. Box 8942, Madison, Wisconsin 53708; or
3. Any unemployment insurance division office; or
4. The office of the labor and industry review commission, 3319 West Beltline Highway, P.O. Box 8126, Madison, Wisconsin 53708.

(b) In the case of an interstate claimant at one of the locations in par. (a) or with a qualified employe of the agent state in which the interstate claimant files claim.

(c) In the case of a petition by the department, only at the office of the commission.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. (1) (intro.) and (c), cr. (1) (d) and (e), r. and recr. (2), r. (3), Register, August, 1982, No. 320, eff. 9-1-82; am. (1) (intro.), (a) to (d), Register, January, 1985, No. 349, eff. 2-1-85; am. (1) (intro.) and (a), Register, May, 1988, No. 389, eff. 6-1-88; r. and recr. Register, May, 1997, No. 497, eff. 6-1-97.

LIRC 2.015 Timeliness of petitions. For purposes of section 108.09 (6) (a), Stats., "received or postmarked" means:

- (1) If the petition is personally delivered, when the department or the commission physically receives the petition.
- (2) If the petition is mailed and bears only a United States postal service postmark, on the date of that postmark.
- (3) If the petition is mailed and bears both a United States postal service postmark and a private meter mark, on the date of the United States postal service postmark.
- (4) If the petition is mailed and bears only a private meter mark, on the date of that mark.
- (5) If the petition is mailed and bears no mark, or bears an illegible mark, 2 business days prior to the date the petition was physically received by the department or the commission.
- (6) If the petition is sent using a delivery service other than the United States postal service, and bears a delivery service mark which is the equivalent of a United States postal service postmark, on the date of that delivery service mark.
- (7) If the petition is sent using a delivery service other than the United States postal service, and does not bear a delivery service mark which is the equivalent of a United States postal service postmark, or bears an illegible delivery service mark, 2 business days prior to the date the petition was physically received by the department or the commission.

History: Cr. Register, May, 1997, No. 497, eff. 6-1-97.

LIRC 2.03 Hearing tapes. Copies of hearing tapes may be requested and obtained according to s. 108.09 (5), Stats., from

the department of workforce development, bureau of legal affairs, division of unemployment insurance, 201 East Washington Avenue, P.O. Box 8942, Madison, Wisconsin 53708. The fee is set forth in s. DWD 140.23.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. Register, August, 1982, No. 320, eff. 9-1-82; am. Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1997, No. 497, eff. 6-1-97; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1997, No. 497.

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, 3319 West Beltline Highway, P.O. Box 8126, Madison, Wisconsin 53708. A fee of \$1.00 per page, or a minimum fee of \$25 which shall constitute the advance fee under s. 108.09 (5) (b), Stats., shall be charged. Upon proper showing of financial inability to pay for copies of such testimony or proceedings, the commission may furnish copies of transcripts on such terms as may be agreed upon. Transcripts shall be furnished after payment of the fee, except that a transcript need not be furnished if the requesting party does not file a timely appeal to court from the commission's decision and the right to further appeal has expired. In such a situation the commission shall refund all or part of the advance payment after taking into account how much of the transcript was completed.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; am. Register, August, 1982, No. 320, eff. 9-1-82; am. Register, January, 1985, No. 349, eff. 2-1-85; am. Register, May, 1997, No. 497, eff. 6-1-97.

LIRC 2.05 Actions for judicial review. Judicial review of any commission decision under s. 108.09 or 108.10, Stats., shall be commenced in the manner and upon the grounds specified in ss. 108.09 (7) and 102.23, Stats., and not under ch. 227 or s. 801.02, Stats. Either party may commence a legal action for review of the commission decision in circuit court within 30 days from the date the decision was mailed to the party's last known address. Such action is commenced only by filing a summons and complaint with the circuit court and serving an authenticated copy of the summons and the complaint upon the commission, all within 30 days. Service must be made upon a commissioner of the labor and industry review commission or an agent authorized by the commission to accept service only at the commission's office in Madison. Such service shall be deemed complete service on all parties but there shall be left with the person so served as many copies of the summons and complaint as there are defendants. Service by mail is effective only if the pleadings are actually received by the commission within the appeal period. The complaint shall state the grounds upon which review is sought. The action shall be commenced against the commission, and the party in whose favor the decision was made shall also be made a defendant. The proceedings shall be in the circuit court of the county where the plaintiff resides except that, if the plaintiff is a state agency, the proceedings shall be in the circuit court of the county where the defendant resides. If the plaintiff is a nonresident of Wisconsin, the proceedings shall be in the circuit court for Dane county. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees. The appealing party shall arrange for preparation of the necessary legal documents.

History: Cr. Register, March, 1981, No. 303, eff. 4-1-81; renum. from LIRC 2.06 and am., Register, January, 1985, No. 349, eff. 2-1-85; r. and recr. Register, May, 1988, No. 389, eff. 6-1-88.