

## **CHAPTER 27-03-06 FIRST STAGE APPEALS**

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### **27-03-06-01. Filing a first stage appeal.**

Any interested party to a determination on a claim for benefits may file an appeal within twelve days after the determination was mailed to the party or twelve days after the determination was otherwise delivered to the party. The appeal shall be in writing, shall set forth a statement of the grounds for the appeal, and must be filed with the local office of the state employment service or at the office of the unemployment compensation division.

**General Authority:** NDCC 52-06-20

**Law Implemented:** NDCC 52-06-10, 52-06-13, 52-07.1-04

### **27-03-06-02. Notice of hearing.**

Appeals shall be heard at the earliest possible date. All interested parties shall be given at least seven days notice of the hearing stating the time and place of hearing and the issues involved.

**General Authority:** NDCC 52-06-20

**Law Implemented:** NDCC 52-06-10, 52-06-13, 52-07.1-04

### **27-03-06-03. Hearing of the appeal.**

1. All hearings shall be conducted informally and in such manner as to determine the substantial rights of the parties. All issues relevant to the appeal shall be considered and passed upon. The claimant and any other interested party may present such evidence as may be pertinent.
2. Where a party is present in person, the referee shall examine such party, and the party's witnesses, if any. At any hearing of an appeal, the referee, with or without notice to the parties, may take such additional evidence as the referee deems necessary. The parties and their representatives may examine or cross examine witnesses, inspect documents, and explain or rebut any evidence.
3. The referee shall place all witnesses under oath and all testimony shall be recorded, however, it need not be transcribed unless further appeal is made.
4. The parties to an appeal, with the consent of the referee, may stipulate the facts involved in writing. The referee may decide the appeal on the basis of such stipulation, or, in the referee's discretion, may set the appeal down for hearing and take such further evidence as the referee deems necessary to enable the referee to determine the issue.
5. Subpoenas to compel the attendance of witnesses and the production of records for any hearing on an appeal may be issued by the referee or by a duly authorized representative of the bureau.
6. A witness subpoenaed for appearance at hearings before the appeal tribunal, the bureau, or a court shall be paid for each day's attendance and for each mile traveled one way, in such an amount as fixed by law in civil proceedings. Fees and mileage of such witness subpoenaed

either by the bureau or on behalf of any party to an appeal shall be deemed part of the expenses of administering the unemployment compensation law.

7. Any individual may appear for oneself in any proceedings before a referee. Any partnership may be represented by any of its members. Any party in interest may be represented by counsel.
8. No referee or member of an appeal tribunal shall participate in the hearing of an appeal in which the person has an interest. Challenges to the interest of any referee or member of the appeal tribunal shall be heard and decided by the bureau.

**General Authority:** NDCC 52-06-20

**Law Implemented:** NDCC 52-06-10, 52-06-13, 52-06-20, 52-06-23, 52-06-24, 52-07.1-04

**27-03-06-04. Adjournment - Failure to appear.**

1. At the referee's discretion, the referee may adjourn a hearing in order to secure additional evidence. The referee may postpone a hearing if the referee decides that such action is necessary to afford all parties a fair hearing.
2. The referee shall continue or reopen a hearing for good cause, and shall use the referee's best judgment as to when a continuance or reopening of a hearing shall be granted in order that all evidence possible be obtained. Notice of time and place of the reconvening of the hearing will be given by the referee.
3. In the event any party in interest fails to appear at a hearing, the referee may adjourn the hearing to a later date, or the referee may proceed with the hearing. The referee shall review the file and record and question any party present.
4. An appeal from a determination or redetermination may, with the permission of the referee, be withdrawn before a hearing thereon. Upon such withdrawal, the determination or redetermination as issued shall be final.

**General Authority:** NDCC 52-06-20

**Law Implemented:** NDCC 52-06-10, 52-06-20, 52-06-21, 52-07.1-04

**27-03-06-05. Decision.**

The referee shall, within seven days after the hearing, set forth in writing the referee's findings of fact, the referee's decision and the reasons for such decision. Copies of such findings of fact and decision shall be mailed to all interested parties, and shall be final unless an appeal to the bureau is filed within twelve days of the date of mailing.

**General Authority:** NDCC 52-06-20

**Law Implemented:** NDCC 52-06-10, 52-06-15, 52-07.1-04