

# RHODE ISLAND DEPARTMENT OF LABOR AND TRAINING

## RULE 15

### REVOCATION HEARING PROCEDURE UNDER 28-42-63.1

#### A. RULES OF PRACTICE AND PROCEDURE

1. Appearance and Practice. Any attorney-at-law or any person authorized by law to practice accountancy may represent any employer in any hearings or other proceedings before the Director. Such person must officially enter his or her appearance with the Director.

Any person may appear and act for himself or herself, or for a partnership of which he or she is a member, or for a corporation of which he or she is an officer, or for an association or other organization of which he or she is a member or official, and being duly authorized by such association or organization to represent it, in any hearings or other proceedings before the Director.

Notice of any change of attorney, accountant, or other duly authorized representative, shall be given promptly to the Director. Said notice of change or withdrawal must be consented to by the employer in writing.

2. Form and Style of Papers. All papers filed with the Director shall be either printed or typewritten, and if typewritten shall be on white paper of the usual legal size (8-1/2" x 14") or the usual letter size (8-1/2" x 11") and shall be clearly legible.
3. Continuances of Hearings. (a) When notice of hearing has been sent to an employer and his or her representative, if known, the date assigned may be postponed at the discretion of the Director for good cause shown.  
  
(b) If the tax has been paid, continuances as requested will be freely made. Otherwise, inordinate delays will be cause for refusal of continuances, and the hearing will proceed as scheduled, with or without the presence of the employer or his or her representative.
4. Scope of Hearing. (a) Hearing Officers to Hear Case. Hearings shall be conducted by a hearing officer appointed by the Director who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence. He or she shall have

the authority to continue or recess any hearing, to keep the record open for the submission of additional evidence, and to make recommendations to the Director. If for any reason, a hearing officer cannot continue on a contested case, another hearing officer will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings in the case.

(b) Conduct of Hearing. The hearing shall be convened by the hearing officer, appearance shall be noted, any motions or preliminary matters shall be taken up, and then each party shall have opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing documentary evidence. The Department of Labor and Training shall first present its case followed by presentation of the employer's case. Each party shall also have opportunity to cross-examine opposing witnesses on any matter relevant to the issue. Any objection to testimony or evidentiary offers should be made, and the basis of the objection stated. The hearing officer may question any party or any witness for the purpose of clarifying his or her understanding or to clarify the record. Proceedings are not open to the public.

(c) Oral Evidence, Witnesses, and Penalty for False Statements. Any party may request a hearing officer to subpoena witnesses or the hearing officer may do so on his or her own motion. A hearing officer may require the parties in a case to indicate the persons they expect to call as witnesses. The testimony of witnesses shall be made under oath or affirmation and the making of false statements may subject a person to criminal prosecution under Chapter 33 of Title 11 of the General Laws, as amended.

(d) Requests for Subpoena Duces Tecum. Any party may request a hearing officer to issue a subpoena duces tecum or the hearing officer may do so on his or her own motion. Said request shall set forth, in detail, the information sought, the relevance thereof, and the reasonableness of the scope of the subpoena. The party requesting the issuance of said subpoena shall have the burden of showing the relevance and reasonableness of the scope of the subpoena. A subpoena duces tecum may be quashed after its issuance if it is subsequently determined that the matters sought to be adduced are not relevant or the subpoena is not reasonable in scope.

(e) Ex Parte Communications. There shall be no verbal communications with the hearing officer regarding any issue of fact or law in a case, without notice and opportunity for all parties to

participate and there shall be no written communications that are not transmitted at the same time to all parties, except that an individual involved in rendering the decision in a case may communicate ex parte with employees of the agency who have not participated in any hearing in the case for the purpose of utilizing their special skills or knowledge in evaluating the evidence.

5. Agreed Statement of Facts. The parties may, by stipulation in writing, filed with the Director, agree upon any facts involved in any request for hearing. Where an agreed statement of facts is contemplated, a proposed statement shall be submitted on behalf of the employer well in advance of the hearing date. To the extent that all the facts are not agreed upon, testimony or exhibits may be presented at the oral proceedings. If for any reason the parties are unable to reach agreement on the facts prior to the scheduled date of the hearing, the oral proceedings shall go forward as scheduled without further notice to the parties unless postponed in accordance with these regulations.
6. Transcript of Oral Proceedings. All proceedings before the hearing officer will be electronically recorded and shall be available for the use of either party by request to the hearing officer. No other electronic recording devices will be allowed in the hearing room.
7. Upon the completion of the hearing, the hearing officer shall promptly render a decision and each party shall be furnished a copy of the decision.
8. All decisions of the Director may be appealed in accordance with Section 28-43-14 of the Employment Security Act.

[Reference to Employment Security Act: Section 28-42-63.1]