

WHAT TO EXPECT FROM A WAGE CLAIM INVESTIGATION

The Oklahoma Department of Labor (ODOL) is mandated by the Oklahoma Legislature to enforce Title 40 of the Oklahoma Statutes. The Wage & Hour Unit serves as an advocate for Oklahoma's workforce. Employers are required to comply with all federal and state laws regarding compensation. The Wage & Hour Unit investigates the validity of wage claims.

STEP 1: Typically an employee contacts the Wage & Hour Unit of the Employment Standards Division, either in person or by telephone, and explains his/her employment situation to a randomly assigned Labor Compliance Officer (LCO). [Employees may choose to proceed to Step 2 by simply filing a completed Wage Claim Form as his/her initial action as set forth in Step 2.]

STEP 2: If the LCO determines that the employment situation, as explained by the employee, falls within ODOL's jurisdiction then he/she will be asked to complete a Wage Claim Form and submit any supporting documents he/she may possess.

STEP 3: The LCO will then forward a copy of the Wage Claim Form and supporting documents to the employee's employer, either former or current, along with an official notice of ODOL's commenced investigation and a blank Employer's Wage Claim Response Form ("Response Form"). The employer is encouraged to complete the Response Form – or provide a substitute written response – and return it to ODOL along with any supporting documents.

STEP 4: The employer is given a minimum of fifteen (15) days from the receipt of the official notice of wage claim filing to submit a written response to ODOL. Once the employer submits such response the LCO will forward it on to the employee for his/her review, comments, and rebuttal. This exchange of information between the interested parties – coupled with the LCO's independent investigation – will continue until the LCO determines that the wage claim is justified, either in whole or part, or is unjustified.

STEP 5: Once the LCO makes a determination regarding the justification of the wage claim he/she will either: (A) Issue a Dismissal Notice if unjustified or, (B) Issue an Administrative Order of Determination ("Determination") if justified. [A Dismissal Notice will be mailed to the interested parties by first class postage and is NOT subject to appeal by the employee and is not res judicata. An Order of Determination will be mailed to the interested parties by certified mail, return receipt requested, and IS subject to appeal by the employer for twenty (20) days following the date of issuance.]

STEP 6: Once ODOL receives an employer's timely challenge of the Determination the wage claim is transferred to the ODOL Office of General Counsel.

STEP 7: An order will then issue, through the Commissioner of Labor, setting a pre-hearing conference and, no sooner than ten (10) days thereafter, an administrative hearing to consider the wage claim. State's counsel will be advised of these dates and will appear in defense of the challenged Determination.

STEP 8: The pre-hearing conference is a date certain whereby all interested parties, and ODOL's counsel, are required to file with ODOL, and exchange with the opposing parties, the following: (A) A statement regarding the facts of the wage claim, or defenses thereto; (B) A list of potential witnesses and, (C) A list, with a minimum of two (2) copies, of any exhibits which may be introduced at the administrative hearing.

STEP 9: At the administrative hearing the employee filing the wage claim, i.e., Wage Claimant, and his/her employer, i.e., Respondent, and ODOL through ODOL's counsel will present to either the Oklahoma Commissioner of Labor or his designated Administrative Law Judge ("ALJ") their respective arguments regarding the merits of the wage claim. The administrative hearing is typically commenced with an opening statement from ODOL's counsel followed by an opening statement by the Respondent. ODOL's counsel will then call those witnesses and offer those exhibits which are believed necessary to successfully defend the Determination. ODOL's counsel will also cross-examine Respondent's witnesses. Claimant and Respondent will then be allowed to call their own witnesses, cross-examine opposing witnesses, and offer exhibits.

STEP 10: If Claimant appears with private counsel ODOL may, but is not required to, file an OAC 380:30-3-6 waiver of appearance thereby allowing Claimant and his/her counsel to present the wage claim without ODOL's appearance.

STEP 11: Following the administrative hearing the Commissioner of Labor or designated ALJ will issue a Final Order either affirming the underlying Determination, in whole or part, or reversing the Determination. Either interested party may then appeal the Final Order by filing a Motion to Reconsider with ODOL within ten (10) days of the issuance of the Final Order which, if denied, may then be appealed to district court by filing a Motion for Judicial Review within thirty (30) days from the receipt of the Final Order. ODOL's General Counsel's Office will continue to defend the Final Order if appealed.

STEP 12: If the Final Order is not timely appealed or if the appeal is unsuccessful but the employer refuses to pay the awarded wages then ODOL will provide to the Claimant, upon his/her request, general collection information in the form of a Collection Packet. The General Counsel's Office does NOT have the authority under Oklahoma's labor laws to assist the Claimant in collecting the Final Order.

For questions regarding the Wage & Hour Unit, Employment Standards Division, please call ODOL at 405-521-6100, or toll-free, statewide 888-269-5353, or visit the ODOL website, www.labor.ok.gov.

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