

Kansas Administrative Regulations

Department of Labor

Article 21.—Procedures

49-21-2. Processing claims.

(a) Service of claim. A copy of the claim shall be mailed to the employer by United States mail.

(b) Investigation.

(1) The investigator shall determine that each claim is within jurisdiction of the Kansas wage payment statutes to the best extent possible prior to service of the claim upon the employer.

(2) The notice of claim shall contain citation of the statute alleged to have been violated with a brief description of the nature of the violation.

(3) The employer shall be notified of a specified date on which a response is required, not to exceed 20 days. Extensions of the response period may be extended for good and sufficient reasons at the discretion of the secretary or the secretary's authorized representative.

(4) The employer shall respond on forms provided by the division of labor-management relations and employment standards within the time specified in the notice of claim or within 10 days of receipt of the claim, whichever is longer. Any response which is incomplete and that does not answer the allegations of the claim shall not be considered to have satisfied the response requirement.

(5) Failure on the part of the employer to respond to a claim shall be considered as establishing a dispute and a hearing may be set without further investigation. The investigator in all claims shall have the full authority and power of the secretary as provided in K.S.A. 44-322.

(6) When the evidence shows there is probable cause to believe that a violation has occurred, the investigator shall attempt to obtain payment or settlement through conciliation of the parties to the dispute.

Determination of an alleged violation shall be based upon:

(A) The lawful provisions of the employment agreement or contract between the employer and employee;

(B) evidence of work performed; and

(C) proof of payment for work performed under the agreement or contract.

Any agreement by the parties or any requirement by the employer to contravene, set aside or waive any provision or any right created under the act shall be in violation of the act and equivalent to nonpayment of earned wages. Any provision contained in the employment agreement or contract that violates any provision or right created by this act shall not be enforceable, regardless of whether the parties have mutually assented to the provision.

Any conditional wage payment requiring a release from further claim for balances alleged to be owed by the employer shall be a violation of K.S.A. 44-321 and therefore null and void unless that release is part of a binding settlement agreement as described in the act and defined herein.

(7) When evidence fails to support the alleged claim, the investigator, after giving 30 days notice to the claimant of the need for further evidence, may dismiss such claim as unmeritorious if such evidence is not submitted.

(8) In claims where a dispute has been determined to exist and payment or settlement is not obtained, the investigator shall prepare the case for hearing. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-321, 44-322, 44-322a, 44-324; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

***** Authenticated Kansas Administrative Regulation *****