

### **803 KAR 3:040. Deadlocked negotiations petition.**

RELATES TO: KRS 345.080, 345.120

STATUTORY AUTHORITY: KRS 345.120(7)

NECESSITY, FUNCTION, AND CONFORMITY: The State Labor Relations Board is authorized by KRS 345.120(7) to promulgate uniform rules necessary to carry out its duties. The function of this administrative regulation is to establish rules for the board relating to their investigatory, administrative and adjudicatory handling of fact-findings as to whether firefighters or their representatives and their employers are deadlocked in negotiations. This administrative regulation is to establish rules for the State Labor Relations Board relating to their investigatory, administrative and adjudicatory handling of fact-findings as to whether firefighters or their representatives and their employers are deadlocked in negotiations, in order to carry out the purpose and intent of the Firefighters Collective Bargaining Act.

Section 1. The petition may be filed by any party to the controversy, and shall be on a form furnished by the board; the original being notarized. Five (5) additional copies shall be filed with the board. The party filing the petition, shall, at the same time, cause a copy of said petition to be served on two (2) other parties or its representative, by return receipt mail.

Section 2. Comments. The petition shall include the following:

- (1) The name, address and affiliation of the labor organization involved, and its principal representative.
- (2) The name, address and principal representative of the municipal employer involved.
- (3) A description of the certified or recognized collective bargaining unit involved, as well as the approximate number of employees in such unit.
- (4) A statement setting forth the basis of the petition, either that after a reasonable period of negotiation the parties are deadlocked; or refused to meet and negotiate in good faith at reasonable times a bona fide effort to arrive at a settlement, and at least thirty (30) days has passed since beginning of negotiations.
- (5) A statement to the effect that, within the knowledge of the petitioner, said deadlock or failure or refusal to meet and negotiate in good faith in a bona fide effort to arrive at a settlement, does not involve discipline or discharge cases under civil service provisions of a state or local ordinance.
- (6) A clear and concise statement of facts constituting said alleged deadlock, or said failure or refusal to meet and negotiate in good faith.
- (7) A statement as to whether or not the municipal employer involved has established fact-finding procedures, (if so, the petitioner must attach a copy of such fact-finding procedures).
- (8) Any other relevant facts.

Section 3. Withdrawal of Board. A petition may be withdrawn only with the consent of the board under such conditions as the board may establish to effectuate the policies of the law.

Section 4. Commissioner of Labor's Investigations.

- (1) Scope. After a petition has been filed, the commissioner shall make an investigation to determine whether or not the parties are deadlocked after a reasonable period of negotiations; of whether or not either party failed or refused to meet and negotiate in good faith at reasonable times a bona fide effort to arrive at a settlement.
- (2) Nature. In such investigation the commissioner may assign an agent to conduct an informal investigation to assist the commissioner in making his determination; or the commissioner may conduct a formal hearing for that purpose; or it may utilize both procedures.

Section 5. Notice of Hearing.

(1) When issued, contents. If it should appear to the commissioner that a hearing is warranted, the commissioner shall issue and serve, upon each party, a notice of hearing at a place feasible in the jurisdiction of the employer involved, on a date and at such time therein fixed.

(2) Amendment or withdrawal. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the commissioner or his agent conducting the hearing.

#### Section 6.

(1) Scope and Nature. The commissioner's hearing shall be limited to pertinent matters necessary to establish the facts to determine whether, after a reasonable period of negotiation, the parties are deadlocked; or whether the municipal employer or labor organization has failed or refused to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(2) Who shall conduct. The hearing may be conducted by the commissioner or an agent designated by the commissioner. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

#### Section 7. Certification of Results of Investigation.

(1) When issued. After consideration of either the report of the commissioner conducting the informal investigation, or the record adduced in the hearing, or both, the commissioner, shall issue a certification of the results of said investigation with respect to the question as to whether or not a fact-finding should be initiated.

(2) Contents. Said certification shall contain findings of fact and conclusions with regard to the investigation, whether initiating fact-finding or dismissing the petition, or such other action, consistent with the intent of the law.

(3) Appointment of fact-finders. If the certification requires that fact-finding be initiated the commissioner shall within five (5) days appoint an impartial chairman for the fact-finding panel. Additionally, the other two (2) members shall be one (1) member named by the labor organization and one (1) by the employer.

(4) Service on the parties, record. A copy of the commissioner's certification shall be immediately served upon the parties, and, if a fact-finder is designated, upon the fact-finders selected. The commissioner shall also therewith submit to the fact-finders a copy of any written informal investigation report, and a copy of the record before the commissioner in the matter.

#### Section 8. Hearing Before the Fact-finders.

(1) Notice of Hearing. Following the receipt of notification of his appointment, the impartial chairman shall issue and serve, upon each of the parties, a notice of hearing at a place feasible in the jurisdiction of the municipality involved at a date and at such time as therein fixed.

(2) Amendment or withdrawal. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing by the fact-finders.

(3) Scope and nature of hearing. The hearing shall be public; and concern pertinent matters necessary for the fact-finders assist him in reaching his recommendation for the solution of the dispute.

(4) Rescheduling hearing. Upon its own motion, or upon proper cause shown by any of the parties, the fact-finders may, prior to the opening of the hearing, reschedule the date of such hearing.

(5) Transcripts. The hearings shall be stenographically reported and transcribed. Such transcripts shall be the sole official transcript. Costs involved for the original of such transcript shall be borne equally by the parties. Copies of the transcript shall be available to the parties and to the public at rates set by the board.

Section 9. Fact-finding Report.

(1) Issuance. After the close of the hearing the fact-finders shall prepare and make a fact-finding report within 120 days from the date the petition to initiate the fact-finding procedure was received by the secretary.

(2) Contents. Such report shall contain:

(a) A statement of findings of fact and conclusions, upon all material issues presented on the record;

(b) Recommendations for the solution of the dispute; and

(c) A memorandum stating the reasons and basis for such findings, conclusions and recommended solutions.

(3) Service. Upon the completion of his report the fact-finding panel shall cause copies of same to be served on the parties as well as the board, and the Commissioner of the Department of Labor.

Section 10. Compensation of Fact-finders. The fact-finding proceeding shall be entitled to a per diem compensation for days spent in hearing in a sum not to exceed fifty (50) dollars per day and for days spent in preparation and issuance of his report in a sum not to exceed fifty (50) dollars per day. The fact-finders shall also be compensated for ordinary expenses occurred in the proceedings.

(3 Ky.R. 424; Am. 690; eff. 4-6-77; TAm eff. 8-9-2007; Crt eff. 2-26-2020.)