

Rule 107. Bond or Deposit for Costs**Rule 107.01 No Cost Bond Required**

Except as required by Rule 116 of these rules with respect to a certiorari appeal from the Workers' Compensation Court of Appeals, no cost bond is required for any appeal, unless ordered by the trial court on motion and for good cause shown.

(Amended effective for appeals taken on or after January 1, 1992; amended effective January 1, 1999; amended effective March 1, 2001; amended effective July 1, 2014; amended effective July 1, 2016.)

Advisory Committee Comment - 2016 Amendments

Rule 107.01 is amended to cross-reference the exception to the general rule that no cost bond is required for appeals unless ordered by the trial court. By statute, review of decisions of the Workers' Compensation Court of Appeals by certiorari requires a cost bond. See Minn. Stat. section 176.471, subdivision 3. Rule 116.03, subdivision 2, recognizes this requirement and Rule 107 is not intended to modify it.

Rule 107.02 Request to Trial Court to Require a Cost Bond

The trial court may, upon motion of any respondent and a showing that extraordinary circumstances warrant the requirement of a cost bond, order that a bond be provided as follows:

(a) the bond shall be issued by a surety licensed to issue such bonds in the State of Minnesota and shall be conditioned upon the payment of all costs and disbursements awarded against the appellant on the appeal, not exceeding the amount of the bond, which shall not exceed \$1,000;

(b) in lieu of a required bond, the appellant may deposit the required amount with the trial court administrator as security for payment; and

(c) the court may require the bond to be filed when the notice of appeal is filed, or within 10 days of the order requiring a bond, whichever date is later.

(Amended effective for appeals taken on or after January 1, 1992; amended effective January 1, 1999; amended effective March 1, 2001; amended effective July 1, 2014.)

Comment - 1983

A cost bond in the amount of \$500 or a stipulation waiving the bond must be filed with the notice of appeal. See Rule 103.01, subdivision 1(d)(6). Rule 107 provides a mechanism for securing, prior to appeal, an order from the trial court waiving the bond or setting a bond in a lesser amount. It also affords the respondent a mechanism for securing a supplemental bond or deposit. Finally, it enumerates the categories of appeals in which a cost bond is not required.

Advisory Committee Comment - 1998 Amendments

Under this rule as revised, the cost bond requirement is not automatically waived when an appeal is filed after a remand. Unless the cost bond from the first appeal remains on deposit, the respondent in the second appeal still needs the protection of a cost bond. Changes in (g) reflect the current terminology.

Rule 107.03 Cases For Which A Cost Bond May Not Be Required

The trial court may not require a bond in the following cases:

(a) a criminal case;

- (b) a case arising in juvenile court;
- (c) a proceeding pursuant to Minnesota Statutes, chapter 253B or 253D;
- (d) when the appellant has been authorized to proceed in forma pauperis pursuant to Rule 109;
- (e) when the appellant is the state or a governmental subdivision of the state or an officer, employee, or agency thereof;
- (f) when the appellant is a party to a public assistance appeal pursuant to Minnesota Statutes, chapter 256; or
- (g) when the appellant is an applicant for unemployment benefits pursuant to Minnesota Statutes, chapter 268.

(Added effective July 1, 2014.)

Advisory Committee Comment - 2014 Amendments

The change in Rule 107.01 removes the requirement of a cost bond for most appeals. The respondent may still ask the district court to require a cost bond, but must make a motion supported by a showing of good cause for the requirement of a bond. This amendment does not change the process for taxation of costs and disbursements, but the appellant is not normally required to incur the expense of obtaining and posting a bond (formerly set at \$500). The rule requires that a respondent seeking to require a cost bond proceed by motion in the trial court and demonstrate good cause.

Rule 107.02 sets forth the requirements for a party seeking to obtain an order requiring the appellant to post a cost bond, drawn primarily from the language formerly part of Rule 107.01. Because the district court applies discretion to order a bond in extraordinary circumstances, the committee recommends that the amount of a bond be determined by the trial court, up to \$1,000. The amount of bond should be lower in many cases under the new rules, as the measure of potential costs is the respondent's costs, not the appellant's, and all costs are expected to be reduced as fewer copies of paper briefs need to be prepared under amended rules, the appendix is not allowed, and the cost of paper transcripts is not required for the court or for most parties.

Rule 107.03 retains the existing rule provisions that establish seven categories of cases for which a bond may not properly be required, even upon application to the trial court.