

5210.0539 EMPLOYEE AND AUTHORIZED EMPLOYEE REPRESENTATIVE CONTESTS.

Subpart 1. Posting and service.

A. The employee or authorized employee representative shall, on or before the date the employee notice of contest form is filed with the commissioner, serve the fully completed employee notice of contest form upon the cited employer. Immediately upon receipt, the employer shall post a copy of the employee notice of contest form where the citation and notification of penalty or notification of failure to abate is required to be posted by part 5210.0530, subpart 3. The notice of contest form must remain posted until the date of the hearing or earlier final disposition of the contest.

B. If there are any other affected employees who are represented by another authorized employee representative, the contesting employee or authorized employee representative shall, on or before the date the employee notice of contest form is required to be filed with the commissioner, serve a copy of the notice of contest form upon that authorized employee representative.

C. The certification of posting and service required by this subpart must be notarized and filed with the commissioner as provided on the employee notice of contest form.

Subp. 2. Filing.

A. An employee or authorized employee representative shall file a letter of contest with the commissioner within 20 days of the date the employer receives the citation and notification of penalty or notification of failure to abate. If an employee or authorized employee representative files a letter of contest with the commissioner within 20 days of the date the employer receives the citation and notification of penalty or the notification of failure to abate, the commissioner shall promptly send the employee or authorized employee representative a notice of contest form by certified mail.

B. Within seven days of the employee's or authorized employee representative's receipt of the employee notice of contest form, the employee or authorized employee representative shall file the fully completed form with the commissioner. The day the notice of contest form is received shall not be included in calculating the seven calendar days. The last day of the seven-day period shall be included, unless it is a Saturday, Sunday, or state holiday, in which event the period runs until the next day which is not a Saturday, Sunday, or state holiday. An employee notice of contest form may be filed with the commissioner by postage prepaid first class mail, personal delivery, facsimile, or electronic transmission according to part 5210.0007.

C. If the letter of contest is not filed within 20 days of the date the employer receives the citation and notification of penalty or notification of failure to abate, or if

the employee notice of contest form is not filed within seven days of the date the form is received, the citation and notification of penalty or notification of failure to abate becomes a final order of the commissioner and is not subject to review by any court or agency.

Statutory Authority: *MS s 182.657*

History: *20 SR 2428; 22 SR 1758; 38 SR 1345*

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