

§824. Appeal by employer

1. Request. An employer who feels that granting the leave of absence required by this subchapter will cause unreasonable hardship for the employer's business may appeal for relief by filing a written notice of appeal with the chair of the State Board of Arbitration and Conciliation. If the notice of appeal is not filed within 14 days of receipt of the employee's notice requesting a leave of absence, the employer waives the right to appeal. The notice of appeal must state the name of the employee and the reasons for the alleged unreasonable hardship. Payment for the services of a member of the State Board of Arbitration and Conciliation must be shared by the parties in accordance with section 931. This section provides the exclusive remedy for an employer claiming unreasonable hardship as a result of a request for leave of absence.

[PL 2005, c. 119, §1 (AMD).]

2. Proceedings. The chair of the State Board of Arbitration and Conciliation, or any member of the board designated by the chair, shall serve as an arbitrator of any case appealed under this section. The proceeding must provide an opportunity for the employee to respond, orally or in writing, to the allegations contained in the appeal. Within 30 days of receipt of the notice of appeal, the arbitrator shall issue an order, binding on both parties, either affirming or denying the claim of unreasonable hardship. If the claim is affirmed, the employee is not entitled to a leave of absence under this subchapter. In reaching a decision, the arbitrator shall consider, but is not limited to, the following factors:

- A. The length of time the employee has been employed by the employer; [PL 1983, c. 128, §1 (NEW).]
- B. The number of employees in the employer's business; [PL 1983, c. 128, §1 (NEW).]
- C. The nature of the employer's business; [PL 1983, c. 128, §1 (NEW).]
- D. The nature of the position held by the employee and the ease or difficulty and cost of temporarily filling the position during the leave of absence; and [PL 1983, c. 128, §1 (NEW).]
- E. Any agreement entered into between the employee and employer as a condition of employment.

[PL 1983, c. 128, §1 (NEW).]

[RR 2023, c. 2, Pt. E, §30 (COR).]

REVISOR'S NOTE: §824. Civil actions for injunctive relief or other remedies (As enacted by PL 1983, c. 452 is REALLOCATED TO TITLE 26, SECTION 834)

SECTION HISTORY

PL 1983, c. 128, §1 (NEW). PL 1983, c. 452 (NEW). PL 1983, c. 583, §15 (RAL). PL 2005, c. 119, §1 (AMD). RR 2023, c. 2, Pt. E, §30 (COR).

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