

Enclosed: APPLICATION FOR WAIVER OF FEES...
ORDER; PETITION; BRIEF

SELF HELP
UNEMPLOYMENT COMPENSATION
APPEAL TO KANAWHA COUNTY CIRCUIT COURT

Please read these directions carefully before you begin filling out your forms.

1. On the "ORDER FILING PETITION" form fill in your name as the "Petitioner". You need to fill in your employer's name on the blank line over "Respondents". The Circuit Clerk's office will fill in the Civil Action Number. Then sign the "Order" form on the line after "Presented by".
2. On the "PETITION FOR REVIEW" form fill in your name and employer name as above. Fill in all blank lines and circle either "affirmed" or "reversed" (you will find this information on your papers from the Board of Review). **STOP! Don't sign this form until you are in front of a notary public.**
3. Take or mail these forms to Kanawha County Circuit Clerk, Kanawha County Courthouse, Judicial Annex, 111 Court Street, Charleston, West Virginia, 25301. These papers must be at the Courthouse by the deadline. Be sure to make and keep a copy for your files.
4. **There is a charge to file the appeal.** You should call the Kanawha County Circuit Clerk's office at (304)357-0440 to find out the exact charge for the filing fee and the service fee. You will need to include that. If you feel you cannot afford the price of these fees we have enclosed a form called "Financial Affidavit and Application: Eligibility for Waiver of Fees, Costs, or Security in a Civil Case" which you can fill out and send to the Court with your petition they will decide from that information if you are income eligible to waive these fees. **THIS MUST ALSO BE SIGNED BEFORE A NOTARY PUBLIC.**
5. Also enclosed is a sample "INITIAL BRIEF OF PETITIONER". The Initial Brief is an argument stating why you should win this on appeal. You can either send this "Brief" in with your appeal now or wait until you get a letter from the Judge with a "briefing schedule". (See sample Brief attached.) You have to fill in the lines just the same as the Order and Petition and, if you send the brief later, identify it by the Civil Action Number that the Circuit Clerk gave (the Civil Action Number should be on the letter the Judge sends you about the "briefing schedule" or you might have to call the Kanawha County Circuit Clerk to get it). You can type the Brief using the sample form we have provided or send a hand written Brief using the same style as the sample.

Good luck.

Petitioner,

v. Civil Action No. _____

ROBERT J. SMITH, Commissioner,
Bureau of Employment Programs;
JANET E. JAMES, Chairman, Board of Review;
HAROLD E. STARR, Member, Board of Review;
SUSAN W. HASTINGS, Member, Board of Review,
West Virginia Department of Employment Security; and
_____, Employer,

Respondents.

ORDER FILING PETITION

This day came the Petitioner, and by verified Petition for Review of a final decision of the Board of Review of the West Virginia Department of Employment Security seeking certain temporary relief and finally, a reversal of the final decision of the Board of Review.

Upon consideration of all of which, upon consideration of argument of counsel for the Petitioner, the Court finds and is of the opinion that the Petition states sufficient grounds, if proved, for the final relief sought and is otherwise proper, and it is therefore ORDERED filed.

It is further ORDERED that the Chairman of the Board of Review shall be served with true copies of this Order and the Petition and sufficient copies thereof for all Respondents and that the Chairman, immediately, upon receipt of service, forward a copy of such service, including a copy of the Petition for Review, by registered mail to each Respondent, including the Commissioner.

It is further ORDERED that within thirty (30) days of service, the Board of Review shall certify and file with this Court, with copies to the Petitioner and the employer, all documents and papers and a transcript of all testimony taken in this disputed claim, together with the findings of fact and decision of the Board of Review on this claim.

All until further ORDER of the Court.

JUDGE

DATE

Presented by:

Petitioner
Pro Se

_____,
Petitioner,

v.

Civil Action No. _____

ROBERT J. SMITH, Commissioner,
Bureau of Employment Programs;
JANET E. JAMES, Chairman, Board of Review;
HAROLD E. STARR, Member, Board of Review;
SUSAN W. HASTINGS, Member, Board of Review,
West Virginia Department of Employment Security; and
_____, Employer,
Respondents.

PETITION FOR REVIEW

Comes now the Petitioner, pursuant to West Virginia Code 21A-7-17 et seq., and appeals the final decision of the Board of Review of the West Virginia Department of Employment Security on the Petitioner's claim for Unemployment Compensation and says:

1. By a final decision dated _____, the Board of Review **affirmed / reversed**
(Circle One)
the decision of the Administrative Law Judge denying the claim of the Petitioner for Unemployment Compensation.
2. The Petitioner has exhausted a claimant's administrative remedies.
3. The decision of the Board of Review purports to have been mailed on _____,
so that appeal is timely presented for filing.
4. The decision of the Board of Review was based on findings of fact and conclusions of law which were erroneous, plainly wrong, or contrary to the substantial evidence in the record as a whole.
5. The final decision of the Board of Review was based on an unconstitutional statute or was unconstitutionally construed.

6. The record and decision below were incomplete.

WHEREFORE, the Petitioner prays that the Court:

1. Order this Petition filed;
2. Order that the Chairman of the Board of Review be served with true copies of this Order and the Petition

and sufficient copies thereof for all Respondents and that the Chairman, immediately, upon receipt of service, forward a copy of such service, including a copy of the Petition for Review, by registered mail to each Respondent, including the Commissioner;

3. Order that within thirty (30) days of service, the Board of Review shall certify and file with this Court, with copies to the Petitioner and the employer, all documents and papers and a transcript of all testimony taken in this disputed claim together with the findings of fact and decision of the Board of Review on this claim;

4. Place this matter on the calendar of the Court giving this matter preference, pursuant to §21A-7-23, over all other civil actions, except cases arising under the Worker's Compensation Law;

5. Reverse the final decision of the Board of Review of the West Virginia Department of Employment Compensation and require the Board of Review to enter an order awarding the Petitioner Unemployment Compensation accordingly or remand this matter for further action; and

6. Grant such other and further relief as the Court may see just and proper.

PETITIONER
Pro Se

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STATE OF \_\_\_\_\_,

COUNTY OF \_\_\_\_\_, to-wit:

VERIFICATION

The undersigned named in the foregoing pleading, after being first duly sworn, says that the facts and allegations therein contained are true, except insofar as they are therein stated to be on information and belief, and that insofar as they are therein stated, they are believed to be true.

\_\_\_\_\_  
Petitioner

Taken, subscribed and sworn to before the undersigned authority this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.  
My commission expires \_\_\_\_\_.

\_\_\_\_\_



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

\_\_\_\_\_,

Petitioner,

v.

Civil Action No. \_\_\_\_\_

ROBERT J. SMITH, Commissioner,  
Bureau of Employment Programs;  
JANET E. JAMES, Chairman, Board of Review;  
HAROLD E. STARR, Member, Board of Review;  
SUSAN W. HASTINGS, Member, Board of Review,  
West Virginia Department of Employment Security; and  
\_\_\_\_\_, Employer,

Respondents.

\_\_\_\_\_  
INITIAL BRIEF  
OF PETITIONER  
\_\_\_\_\_

The Unemployment Compensation benefits program was established by Congress. "The objective of Congress was to provide a substitute for wages lost during a period of unemployment not the fault of the employee. [Emphasis added]" *California v. Java*, 402, U.S. 121, 130, 28 Lawyers Edition, 2nd 666, 91 Supreme Court 1347 (1971). The Petitioner became unemployed through no fault of his/her own. Please consider the following:

On a separate sheet of paper start telling your story here as well as you can... you can get wordy, but make sure it is legible and readable. Number your paragraphs and number your pages. After you tell your story put a conclusion (see next page) starting it "In conclusion..." and sum up what you just said in a few sentences. Then at the bottom sign your name, print your name and address.

In conclusion:

The decision should be reversed. The case should be remanded for payment of benefits accordingly.

Respectfully Submitted

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PETITIONER, *Pro Se*

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Print Name

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Address

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City

State

Zip