

FAQs TO ASSIST SELF-REPRESENTED PARTIES

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1. What is the difference between an Expedited Hearing Order, a Compensation Hearing Order, and other trial court orders?
 - a. If an injured worker seeks temporary disability or medical benefits while their claim is pending, he or she may file a "Request for Expedited Hearing," which asks the trial judge to order the employer to start paying those benefits before a trial (called a "Compensation Hearing") is held. Once the trial judge has considered the evidence presented by the parties, the judge will issue an order (called an "Expedited Hearing Order") awarding or denying some or all of the requested benefits. Either party may appeal this order to the Workers' Compensation Appeals Board. Tenn. Code Ann. § 50-6-239(d)(1).
 - b. Once the injured worker has undergone medical treatment and recovered from his or her injury as much as the doctor believes is likely (referred to as "maximum medical improvement"), the judge will schedule the case for a trial if the parties cannot settle the claim. After considering the evidence presented by the parties at the trial, the judge will issue an order (called a "Compensation Hearing Order") awarding or denying some or all of the requested benefits. This order should resolve all remaining issues in the case. Tenn. Code Ann. § 50-6-239(c).
 - c. Sometimes, the order being appealed is not an Expedited Hearing Order or a Compensation Hearing Order. These types of orders usually result from either party filing a motion, such as a motion to compel discovery or a motion for an extension of time, or an order entered by the trial court to control the court's docket, such as a scheduling order. These orders are called interlocutory orders and can be appealed as well. (An interlocutory order is one that does not resolve all the issues in the case. An Expedited Hearing Order is a special kind of interlocutory order.) To appeal an interlocutory order, the procedure for appealing an Expedited Hearing Order should be followed.
2. How do I file an appeal?

To appeal the trial judge's order, you must file a "Notice of Appeal" with the Clerk of the Court of Workers' Compensation Claims. This form is found at <https://www.tn.gov/workcompcourt> under "forms," or at any local Bureau office. See [Tenn. Comp. R. & Regs. 0800-02-22-.01\(1\)](#).

A Notice of Appeal for an Expedited Hearing Order (or other interlocutory order) must be filed within **7 business days** of the date the trial court issued its order. A Notice of Appeal for a Compensation Hearing Order must be filed within **30 calendar days** of the date the trial court issued its order. If the Notice of Appeal is not timely filed, the Appeals Board does not have jurisdiction to hear the appeal, and the appeal will be dismissed. See [Tenn. Comp. R. & Regs. 0800-02-22-.01\(1\)](#); [0800-02-22-.01\(3\)](#). The Rules applicable to the Appeals Board can be found [here](#).

3. What is a Docketing Notice and what does it mean?

The docketing notice is issued by the Clerk of the Appeals Board to inform the parties that the Appeals Board has received the appeal. If you are appealing an interlocutory order, it is likely that no further action will be necessary when you receive the docketing notice. If you are appealing a Compensation Hearing Order, the time for the parties to file briefs begins to run on the date the docketing notice is filed. See [Tenn. Comp. R. & Regs. 0800-02-22-.02\(3\); 0800-02-22-.03\(2\)](#).

4. When am I required to file other documents on appeal?

There are deadlines for such actions as filing a transcript of the proceedings in the trial court and filing briefs. Those deadlines depend on whether you are appealing an interlocutory order (including an Expedited Hearing Order) or a Compensation Hearing Order. To determine what those deadlines are, refer to the rules found [here](#). These rules also contain information regarding when to file such things as motions for an extension of time.

5. Do legal holidays count toward my deadline?

If your deadline is calculated based on *business days*, no; legal holidays and weekends are not included in calculating the deadline. However, if your deadline is calculated based on *calendar days*, legal holidays are included. If a deadline calculated based on calendar days falls on a weekend or legal holiday, the document must be filed by the end of the next business day. For further guidance and to determine what holidays are recognized, refer to [Rule 6.01 of the Tennessee Rules of Civil Procedure](#) and Tennessee Code Annotated section 15-1-101.

6. If I am not the appealing party, can I also raise issues on appeal?

Yes, in addition to responding to the issues raised by the employer, you can raise other issues in your brief. If you do, the employer will be allowed to file a reply brief addressing these issues. See [Tenn. Comp. R. & Regs. 0800-02-22-.03\(3\)](#).

7. Am I required to file a transcript of the trial court hearing?

No. It is recommended, but not required, that you file a transcript of the hearing or a joint Statement of the Evidence. However, if the Appeals Board does not have either, the likelihood of successfully appealing a trial court's order is significantly reduced because it is much more difficult for the Appeals Board to give the appeal a meaningful review when an important component of the evidence is missing. The transcript must be filed with the Clerk of the Court of Workers' Compensation Claims within **10 business days** of the date the Notice of Appeal was filed in an appeal of an interlocutory order (including an Expedited Hearing Order) or within **15 calendar days** of the date the Notice of Appeal was filed in an appeal of a Compensation Hearing Order. See [Tenn. Comp. R. & Regs. 0800-02-22-.02\(1\); 0800-02-22-.03\(1\)](#).

8. How do I request a transcript of the trial court hearing?

If a court reporter attended the hearing, you may request a copy of the transcript from the court reporter for a fee. If a court reporter was not present, you can request a copy of the audio recording from the Clerk of the Court of Workers' Compensation Claims for \$25 and hire a court reporter to transcribe the recording.

9. What if I cannot afford to pay for a transcript of the hearing?

If you cannot afford to pay for a transcript, you may ask the employer's attorney to agree to a joint Statement of the Evidence, which is a written summary of the testimony presented at the hearing. The joint Statement of the Evidence must be presented to and approved by the trial judge before it will become part of the record. If you and the employer's attorney cannot agree on what the joint Statement of the Evidence should say, you can file a motion with the trial judge asking him or her to resolve the dispute. The Appeals Board will not consider a joint Statement of the Evidence unless *all parties* agree to it **or** the parties have asked the trial judge to resolve any disagreements regarding what information should be contained in the joint Statement of the Evidence.

The joint Statement of the Evidence must be filed with the Clerk of the Court of Workers' Compensation Claims within **10 business days** of the date the Notice of Appeal was filed in an appeal of an interlocutory order (including an Expedited Hearing Order) or within **15 calendar days** of the date the Notice of Appeal was filed in an appeal of a Compensation Hearing Order. See [Tenn. Comp. R. & Regs. 0800-02-22-.02\(1\); 0800-02-22-.03\(1\)](#).

10. Am I required to file a brief on appeal? Am I penalized if I do not file a brief?

No, you are not required to file a brief on appeal, but it is strongly recommended that you do. It is important to explain to the Appeals Board why you believe the trial court's order is right or wrong. The Appeals Board relies on the parties to identify issues on appeal and will not review the record for the purpose of locating issues that are not raised by the parties. For an appeal of an interlocutory order, including an Expedited Hearing Order, your brief must be filed with the Clerk of the Court of Workers' Compensation Claims within **10 business days** of the expiration of the time to file a transcript or joint Statement of the Evidence. For an appeal of a Compensation Hearing Order, your brief must be filed with the Clerk of the Appeals Board within **15 calendar days** after the Clerk issues a docketing notice acknowledging the Appeals Board's receipt of the record on appeal. See [Tenn. Comp. R. & Regs. 0800-02-22-.02\(2\); 0800-02-22-.03\(3\)](#).

11. If I want to file a brief but cannot meet the deadline, can I get an extension?

You may file a written request (called a "Motion for Extension of Time") with the Clerk of the Appeals Board to ask for more time, but such a request should be filed before the deadline to file the document has expired. In an appeal of an Expedited Hearing Order or other interlocutory order, the Appeals Board can extend deadlines for up to five additional business days. In an appeal of a Compensation Hearing Order, the Appeals Board can extend deadlines for up to twenty-one additional calendar days. Tenn. Code Ann. § 50-6-217(d)(1).

12. If the employer is the appealing party, when do I file my brief?

- a. For an appeal of an Expedited Hearing Order or other interlocutory order, your response brief must be filed with the Clerk of the Court of Workers' Compensation Claims within **10 business days** of the date the employer's brief was filed or, if the employer did not file a brief, within **10 business days** of when the employer's brief was due. [Tenn. Comp. R. & Regs. 0800-02-22-.02\(2\)](#).
- b. For a Compensation Hearing Appeal, your response brief must be filed with the Clerk of the Appeals Board within **15 calendar days** of the date the employer's brief was filed, or, if the employer did not file a brief, within **15 calendar days** of when the employer's brief was due. [Tenn. Comp. R. & Regs. 0800-02-22-.03\(3\)](#).

13. If the employer is the appealing party and does not file a brief, do I have to?

No, you are not required to file a brief on appeal. However, even if the appealing party does not file a brief, you may want to consider filing one to identify any issues you want raised on appeal and explain why you believe the trial court's decision is correct.

14. What are the page limits for briefs on appeal?

For appeals of both Compensation Hearing and interlocutory orders (including Expedited Hearing Orders), the "argument" section of your brief is limited to fifteen pages unless you receive permission from the Appeals Board to exceed that length. Any motion seeking to expand the page limit of a brief must be filed at least five business days prior to the date the brief is due. [Tenn. Comp. R. & Regs. 0800-02-22-.05, -.06 & -.07](#).

15. What does the cover page of my brief need to contain?

Briefs need a cover page that has: (1) the style of the case (which includes the names of the parties, the docket number, and the state file number); (2) the title "Brief of the Appellant" (the party filing the appeal) or "Brief of the Appellee" (the party responding to the appeal), depending on which you are; and (3) the name and address of the person filing the brief. [Tenn. Comp. R. & Regs. 0800-02-22-.07](#).

16. Are reply briefs permitted on appeal?

Generally, no. Reply briefs are not allowed unless the party who did not file the appeal raises issues in its brief that were not raised in the filing party's brief. If the responding party raises additional issues on appeal, the party who filed the appeal will be allowed to file a reply brief to address only those issues. See [Tenn. Comp. R. & Regs. 0800-02-22-.03\(3\)](#).

17. Can I file other documents on appeal?

No. You may only refer to, attach, or rely on medical records, witness statements, photographs, or other documents that were submitted to the trial court *and admitted into evidence* during your hearing *or* were excluded by the trial court but marked for "identification purposes only." Any

documents not presented to and considered by the trial court will not be considered on appeal. See *Hadzic v. Averitt Express*, No. 2014-02-0064, 2015 TN Wrk. Comp. App. Bd. LEXIS 14, at *13 n.4 (Tenn. Workers' Comp. App. Bd. May 18, 2015) (“[The Appeals Board] will not consider on appeal testimony, exhibits, or other materials that were not properly admitted into evidence at the hearing before the trial judge.”).

18. When can I expect to receive the Appeals Board’s opinion?

- a. In an appeal of an Expedited Hearing Order, the Appeals Board will issue a written decision affirming, reversing, or modifying the trial court’s decision and remanding the case within twenty business days of receipt of the record on appeal or oral argument has been conducted, whichever is later. Tenn. Code Ann. § 50-6-217(a)(2)(A).
- b. In an appeal of a Compensation Hearing Order, within forty-five calendar days after the expiration of the briefing period or after oral argument has been conducted, whichever is later, the Appeals Board will issue a written decision affirming, reversing, or modifying the trial court’s decision or any combination of those actions. The Appeals Board may remand the case to the trial court if additional action is necessary, or it may certify the trial court’s decision as final. If the decision is certified as final, any party dissatisfied with the outcome may appeal to the Tennessee Supreme Court. Tenn. Code Ann. § 50-6-217(a)(2)(B).

19. What does the Appeal Board’s opinion mean?

An “opinion” issued by an appellate court is its written decision in the case and is binding on the parties and the trial court, meaning that the parties and the trial court must do as the Appeals Board’s opinion instructs. If an opinion affirms the trial court, it means the appellate court agrees with the trial court’s decision. If an opinion reverses the trial court, it means the appellate court believes a different result is the correct result. If the opinion modifies the trial court’s decision, it means that, generally, the appellate court agrees with the trial court’s conclusion but with some changes.

20. If I disagree with the Appeals Board’s opinion, what are my options?

- a. For an appeal of an interlocutory order, including an Expedited Hearing Order, the Appeals Board’s decision is final; there is no further appeal. Tenn. Code Ann. § 50-6-217(a)(2)(A). The case will be remanded to the trial court and, if circumstances change or additional evidence is obtained, you may ask the trial court to reconsider an issue it has addressed in a previous interlocutory order.
- b. For an appeal of a Compensation Hearing Order that the Appeals Board certifies as final, if you are dissatisfied with the decision of the Appeals Board, you may appeal to the Tennessee Supreme Court in accordance with the Tennessee Rules of Appellate Procedure. Tenn. Code Ann. § 50-6-217(a)(2)(B).

21. *With which clerk do I file documents relating to my appeal?*

The following documents are to be filed with the Clerk of the Court of Workers' Compensation Claims:

- (1) the Notice of Appeal and payment of the filing fee;
- (2) the Affidavit of Indigency;
- (3) a transcript of the hearing or a joint statement of the evidence; and
- (4) briefs in appeals of expedited hearing or other interlocutory orders.

The following documents are to be filed with the Clerk of the Workers' Compensation Appeals Board:

- (1) briefs in appeals of compensation hearing orders; and
- (2) motions on appeal.

For more information, please read the blog post [here](#).

22. *How can I view the record on appeal?*

The Appeals Board provides access to records on appeal through the Bureau's electronic filing system, TNComp. Please reach out to Penny Shrum, Clerk of the Court of Workers' Compensation Claims, or Olivia Yearwood, Clerk of the Workers' Compensation Appeals Board, for a link to the record in your case. If you do not currently have credentials that allow you to log in to TNComp, Penny Shrum can assist you in setting up your log-in information. In addition, when the Clerk of the Court of Workers' Compensation Claims transmits the case to the Appeals Board, you or your attorney are copied, and the case record is attached to the transmitting email.

23. *How do I voluntarily dismiss my appeal?*

For guidance regarding how to voluntarily dismiss an appeal, please refer to **Tenn. Comp. R. and Regs. 0800-02-22-.09(2) (2020)**.

24. *Does the Appeals Board hear appeals of claims for unemployment benefits?*

The Appeals Board only hears appeals related to claims of workplace injuries and is unable to accept or process an unemployment claim or appeal.

For any questions concerning an appeal related to unemployment benefits, please contact the Unemployment Insurance Division of the Tennessee Department of Labor and Workforce Development. The Unemployment Insurance Division can be contacted by telephone at **(844) 224-5818** or via their website at <https://www.tn.gov/workforce/unemployment.html>.