

12                    **DEPARTMENT OF LABOR (DOL)**

186                   **STATE BOARD OF ARBITRATION AND CONCILIATION**

**Chapter 3:        LOGGING DISPUTE RESOLUTION BOARD**

---

**SUMMARY:** This chapter contains the rules governing the procedures of the Logging Dispute Resolution Board.

---

- § 1.    **Effective Date.** The rules of the Logging Dispute Resolution Board (Board) contained in this chapter are effective as of July 1, 2023. All actions pending as of that date are subject to these rules.
- § 2.    **Nature of a Complaint** The filing of a complaint with the Board is a request that the Board hear and decide a dispute between a forest products harvester and forest landowner related to wage violations, payout amounts, contract violations or disputes related to hiring and publish a written opinion and make an award if appropriate.
- § 3.    **Who May File a Complaint.** A forest products harvester or forest landowner, as defined in 26 M.R.S.A. §3701, may file a complaint with the Board.
- § 4.    **Time Limit for Filing a Complaint.** No complaint may be filed more than 2 years after an alleged dispute.
- § 5.    **Contents of a Complaint.** The complaint must contain, insofar as known, all of the information specified in a form provided by the Board. The complaint must also include a Concise Statement of Facts, which is a clear and concise statement of the facts constituting the complaint, set out in separate numbered paragraphs. The complaint may also include, but is not required to include, attached documentary evidence in support of the factual allegations made in the complaint.
- § 6.    **Filing of Complaint with Board; Service of Complaint upon Other Party.** The complaint must be filed with the Board in accordance with section 11. A copy of the complaint must be served on the other party to the dispute in accordance with section 12. The complaint will not be considered officially filed with the Board until a hard copy has been placed in the mail or otherwise served on the respondent.
- § 7.    **Fees and Expenses.** The costs for services rendered and expenses incurred by the Board and any state cost allocation program charges must be borne by the party against whom the Board decides.

- § 8. **Executive Director.** The executive director is the Executive Director of the Maine Labor Relations Board. Whenever a rule refers to the executive director, the action or responsibility may be delegated to the executive director's designee.
- § 9. **Definition of Working Days.** "Working days" means those days when State offices in Augusta are open for business.
- § 10. **Computation of Time Periods.** In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act or event after which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
- § 11. **Filing**
1. **Electronic Filing.** All correspondence, motions, complaints and any other documents filed with the Board may be filed electronically via internet transmission to the Board's general email address, [ldrb@maine.gov](mailto:ldrb@maine.gov), in the manner provided for in this section.
  2. **Electronic Filing Procedure.** All documents filed electronically must be filed pursuant to the following procedure.
    - A. The filing shall include an email correspondence to the Board that identifies the name of the person or representative making the filing and the name of the party in whose name the document is being filed.
    - B. Documents filed electronically must be in Microsoft Word® or PDF format and must be capable of being readily printed or otherwise reproduced clearly and legibly on paper 8 and 1/2 inches by 11 inches in size. Documents for filing must be included as an attachment to the email required in paragraph A.
    - C. When a signature is required for a document to be filed with the Board, the document must either be signed by hand and scanned as a PDF file or must be signed electronically in the following format: "/s/ [signatory's name]."
    - D. Documents submitted to the individual email addresses of Board members, the executive director, or other staff members shall be deemed not filed.
  3. **Filing Date.** A document submitted to the Board electronically will be deemed to be filed or received on the date and time in which the Board received the document at the Board's general email address, [ldrb@maine.gov](mailto:ldrb@maine.gov), in accordance with this section. A document will be considered filed on a certain day if it is received electronically as of 11:59 p.m. on that day. The date and time that a document has been received electronically will be noted in a Notice of Electronic Filing, which will be sent by the Board electronically to the filing party.

4. **Filing by Mail, Delivery Service or Hand Delivery.** Parties who do not wish to submit documents electronically may submit documents by mail, delivery service or hand delivery. A party may hand deliver a document for filing at the Maine Labor Relations Board's office, by prior arrangement, between the hours of 8:30 a.m. and 4:30 p.m. on Monday through Friday, excepting dates on which the office is closed due to State holidays, extreme weather or emergency.

## § 12. Service

1. **Methods of Service.** A paper is served upon a party when it is mailed to the party or the party's attorney, or delivered by hand delivery or delivery service to the recipient or the recipient's office. A paper may also be served electronically, in accordance with subsection 2.
2. **Electronic Service.** Except in the case of service of a complaint, amended complaint or subpoena, whenever a rule requires that a party serve a copy of a document on another party, service may be effected exclusively by email.

For service of a complaint or amended complaint, service will be considered complete on the date that service was provided to the other party by email, so long as service by mail, hand delivery or delivery service occurred on the same calendar day.

3. **Certificate of Service.** Whenever a rule requires that a party serve a copy of a document on another party, the serving party may demonstrate compliance with the requirement of service by submitting to the Board a signed statement certifying service. The statement should include a written declaration of the names and addresses of the parties served and the date and manner of service. The following is an example of a statement certifying service: "I, \_\_\_\_\_, certify that on \_\_\_\_\_, I served a copy of this document on \_\_\_\_\_(name of party) by mailing/hand delivery/delivery via \_\_\_\_\_ delivery service (indicate which method), at the following address:\_\_\_\_\_."

Proof of service, such as a certified mail return card, is not required except in the case of a complaint or amended complaint. Such proof will satisfy the requirement for a certificate of service. A sample certificate of service is available from the Board and is included with the Board's complaint form (LDRB Form 1).

4. **Proof of Service.** For a complaint or amended complaint, the executive director may at any time require the complainant to file proof of the date that the complaint was served on the respondent if proof of service is not filed with the complaint. Proof of service may be in the form of either a certified mail receipt signed by the recipient addressee or an agent of the addressee, a signed and dated acknowledgment of receipt by hand delivery, a dated confirmation of delivery from the Post Office or other delivery service, a dated statement of refusal of service or a copy of the sent email that includes the date and the email address to which it was sent.

- § 13. **Official Transcripts.** A party to a Board hearing seeking to have the hearing transcribed may, with prior approval of the Board, make arrangements for transcription by a qualified court reporter and shall assume the costs of the service. If such arrangements are made and a transcript is produced, a copy must be furnished to the Board without cost and to the other parties upon

request and tender of the appropriate fee. If the transcript is agreed by the parties to be or, in appropriate cases, determined by the Board to be the official record of the proceeding, it must be made available to the other party for inspection at a time and place determined by the Board.

- § 14. **Enlargement of Time Periods and Postponement of Proceedings.** When an act must be done within a specified time period or if a proceeding has been scheduled, and, prior to the expiration of that period or the date of the proceeding the Board receives a request for enlargement of that time, the Board may in its discretion with or without motion or notice enlarge that time period for good cause shown. Upon motion made after the expiration of the specified period, the Board may extend the period where the failure to act was the result of excusable neglect.
- § 15. **Witnesses and Subpoenas.** A party to a proceeding before the Board may request the attendance of witnesses voluntarily or by subpoena. If witnesses or documents are sought by subpoena, the requesting party must first make a written request to the Board or presiding official for the issuance of the subpoena. When the subpoena is issued, it is the responsibility of the requesting party to serve the subpoena or cause it to be served on the named individual. When a witness is subpoenaed, the witness fee and transportation allowance established by 16 M.R.S.A. §251 must be provided at the time the subpoena is served. If the Board, on its own motion, requires the attendance of witnesses through subpoenas, the Board will cause the subpoena to be served on the named individual and will be responsible for paying the required witness fee and transportation allowance.
- § 16. **Discovery.** Upon request of either party in a dispute pending before the Board and for good cause shown, the chair of the panel assigned to hear the matter may issue a subpoena duces tecum, returnable at such date, time and place in advance of the hearing as determined by the chair, to secure copies of such relevant records and documents in the possession of the other party as may be necessary for the prosecution of the requesting party's case.
- § 17. **Rules Regarding Evidence.** The strict rules of evidence observed by courts do not apply in matters before the Board. The following rules regarding evidence apply:
1. **Evidence** The Board shall admit evidence if it is the kind upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Irrelevant or unduly repetitive evidence may be excluded.
  2. **Rules of Privilege.** The Board shall observe the rules of privilege recognized by law.
  3. **Written Evidence; Exception.** No sworn written evidence shall be admitted unless the author is available for cross-examination or subject to subpoena, except for good cause shown.
- § 18. **Confidential Information.** The Board's proceedings are confidential and any information disclosed by either party to a dispute to the Board or any of its members in carrying out their duties shall be confidential.

- § 19. **Official Notice.** The Board may take official notice of any facts of which judicial notice could be taken, and may take official notice of technical or scientific matters within their specialized knowledge. They may also take official notice of statutes, regulations and nonconfidential agency records. Parties will be notified of the Board's intention to take official notice and will be afforded a reasonable opportunity to contest the substance or materiality of the facts involved. Members of the Board may utilize their experience, technical competence and specialized knowledge in evaluating the evidence presented to them.
- § 20. **Rights of Parties.** Any party to the hearing shall have the right to be represented by counsel or by other representative, at the party's expense, to examine and cross-examine witnesses, and to offer documentary and other evidence. Stipulations may be offered with respect to any issue. Parties may request the issuance of subpoenas. The Board shall allow oral argument upon request, and, after consultation with the parties, may require briefs to be submitted. Any brief permitted to be filed must be filed in the original and 3 copies. A copy of any brief filed with the Board must simultaneously be served on all parties to the matter.
- § 21. **Ex Parte Communications Prohibited.** No party or other person(s) legally interested in the outcome of a hearing may communicate *ex parte* either directly or indirectly with the Board assigned to the case in connection with any issue of fact, law or procedure except upon notice and opportunity for all parties to participate.
- § 22. **Board Award.** After the close of the record the Board will issue a written opinion and an award, if appropriate, within a reasonable time. The opinion shall include findings of fact sufficient to constitute the basis of the decision and record the vote of each member of the Board. Any member of the Board may prepare a dissenting decision or a decision concurring in part and dissenting in part and such separate decision will be disseminated in the same manner as the majority decision. The Board shall deliver the award to each party personally or by certified mail.
- § 23. **Change of Award.** Either party may file an application with the Board for modification or correction of an award. Such application must be filed with the Board within 20 days after delivery of the award to the applicant. The applicant shall give notice of the application forthwith to the other party, stating that such party must serve its objections thereto, if any, within 10 days from receipt of the notice. Upon review of the application and any objections, the Board may modify or correct the award where there was an evident miscalculation of figures, an evident mistake in the description of any person, thing, or property referred to in the award, or the award is imperfect in a matter of form, not affecting the merits of the controversy. Any award so modified or corrected is subject to review as provided in the following section.
- § 24. **Appeal.** A decision of the Board constitutes final agency action and is subject to review by the Superior Court under the *Maine Administrative Procedure Act*, 5 M.R.S.A. chapter 375, subchapter 7, in accordance with *Maine Rules of Civil Procedure*, Rule 80B. The Court may, after consideration, affirm, reverse or modify any such binding decision based upon an erroneous ruling or finding of law. An appeal may be taken to the Law Court as in any civil action.

§ 25. **Enforcement.** A party to a decision of the Board may bring a civil action in Superior Court to enforce a decision of the Board.

§ 26. **Other Procedural Issues.** In the event that procedural issues arise that are not addressed by these rules or the statutes establishing the Logging Dispute Resolution Board, 26 M.R.S.A. §3701 *et seq.*, or by the *Uniform Arbitration Act*, 14 M.R.S.A. §5927 *et seq.*, the Board will look to the Labor Arbitration Rules promulgated by the American Arbitration Association for guidance in resolving such questions.

---

**STATUTORY AUTHORITY:**

26 M.R.S.A. §3707

**EFFECTIVE DATE:**

July 1, 2023 – filing 2023-087

**SECTION NUMBERING CORRECTED:**

June 23, 2023