



BUREAU OF LABOR AND INDUSTRIES

CONTESTED CASES IN BOLI'S HEARINGS UNIT

How does a case get to the Hearings Unit?

When an investigation by BOLI's Civil Rights Division or Wage and Hour Division results in a determination that a respondent violated statutes that BOLI has jurisdiction to enforce and the respondent and division do not resolve the matter, the case may be referred to the BOLI Hearings Unit.

What happens when the case goes to the Hearings Unit?

In the Hearings Unit, a BOLI "case presenter" is assigned to the case to represent the agency and any civil rights complainants or wage claimants. The case presenter prepares and issues charges against the respondent.

What are a respondent's alternatives after receiving charges?

Informal Disposition. A respondent may agree to resolve the matter by settlement if an agreement can be negotiated by the case presenter with the division and any complainant or claimant. Alternatively, the respondent and the case presenter may agree to submit the matter to mediation before a trained BOLI mediator. If the matter settles, the BOLI Administrative Law Judge will incorporate the settlement into a "final order on informal disposition" which is issued to the participants and has the force of law.

Contested Case Hearing. Alternatively, the respondent may request a contested case hearing.

Pre Hearing. Prior to a contested case hearing, respondent's attorney or representative and the case presenter participate in "discovery" to determine the strength of each other's cases. They also file case summaries, may file and respond to pre-hearing motions, and participate in any pre-hearing conferences scheduled by the BOLI Administrative Law Judge.

Hearing. A contested case hearing under the Oregon Administrative Procedures Act is a trial-like proceeding before an administrative law judge and includes opening statements, introduction of exhibits, examination and cross examination of witnesses, motions and responses to motions and closing statements. The Administrative Law Judge may request that the participants submit written

argument after the hearing on any legal issues that were raised in the hearing. When all evidence accepted into the record and all legal arguments requested have been received, the Administrative Law Judge closes the record.

After the Hearing. After the hearing the administrative law judge issues a Proposed Order including findings of fact, conclusions of law, an opinion and an order either finding violation(s) and ordering penalties, damages or other remedies authorized by statute or dismissing some or all of the charges. The case presenter and respondent may file written "exceptions" (arguments against the Proposed Order). The Administrative Law Judge reviews the exceptions and drafts a final order for review by the BOLI commissioner. The commissioner may review the contested case record and discuss the case with the Administrative Law Judge and may ask for changes to the final order before signing and issuing it. Respondents may appeal commissioner's final orders to the Oregon Court of Appeals.

How many cases go to the Hearings Unit?

During the 2008-2009 fiscal year the Hearings Unit had 166 open cases. Sixteen hearings were conducted and 9 Commissioner's Final Orders were issued. Fifty Final Orders on Informal Disposition (representing settlements) were issued. Nineteen cases were administratively closed due to private settlements or other factors.

What should a Respondent do upon receiving Charges issued by BOLI?

If you are served with a BOLI Notice of Intent or Order of Determination (Wage and Hour Division charges) or Formal Charges (Civil Rights Division charges) alleging that you violated the law, you must file an answer within the time period indicated on the notice, appear at any hearing you request, and follow all other deadlines and instructions issued by the Division or the Administrative Law Judge. If you have questions, contact BOLI at the number indicated on the documents you receive or call the Hearings Unit at (971) 673-0821 in Portland.