

2.34. APPEALS FROM DETERMINATIONS OF THE RETIREMENT BOARD

PURSUANT TO G.L. 1956 § 45-21.2-9. -- (A) Any appeal from a determination of the Retirement Board made pursuant to G.L. 1956 § 45-19-1 shall be heard by the Court, *de novo*, in accordance with the Rules of Practice of the Workers' Compensation Court and G.L. 1956 § 45-21.2-9.

(B) The party claiming an appeal shall file a notice of appeal with the Retirement Board and with the court within twenty (20) days of the entry of the Retirement Board's decision and shall serve copies of said notice of appeal upon the opposing parties. The notice of appeal shall be accompanied by a statement of claim together with the Orders and Findings adopted by the Retirement Board.

(C) When a notice of appeal is timely filed with the court, the order of the Retirement Board shall be stayed pending further action by the court.

(D) Upon receipt of the notice of appeal and statement of claim, a judge shall conduct a mandatory pretrial conference within twenty-one (21) days, pursuant to G.L. 1956 § 28-35-20. Notice of said conference shall be sent by the court to the appellant and/or attorneys of record stating the name of the judge assigned to hear the matter as well as the date, time, and location of the pretrial conference. The appellant shall serve the notice of appeal and notice of hearing upon the opposing parties in accordance with W.C.C. – R.P. 1.5.

(E) No later than seventy-two (72) hours prior to the pretrial conference all parties shall submit and exchange the medical records and reports in support of their respective positions regarding the claim.

(F) Upon receipt of a notice of appeal and prior to the pretrial conference, the municipality/agency affected by the decision of the Retirement Board may intervene as a party to the case without leave of the court. Following the pretrial conference, and only with leave of the court, the municipality/agency may intervene as a party and shall then be entitled to notice and an opportunity to be heard.

(G) Any party aggrieved by a decision or decree of the Workers' Compensation Court shall file an appeal in accordance with G.L. 1956 § 28-35-28 and Article IV of the Rules of Practice of the Workers' Compensation Court.

(H) The court shall retain jurisdiction in these matters to review its orders and decrees. Such petitions shall be filed directly with the court and shall be subject to the Rules of Practice of the Workers' Compensation Court and procedures for case management and dispute resolution as set forth in Title 28, Chapters 29 through 38.

Reporter's Notes. In 2011, the jurisdiction of the Workers' Compensation Court was expanded by the enactment of G.L. 1956 § 45-21.2-9(f) – (k). This rule was added to set forth the rules and procedure for appeals from the Retirement Board by parties seeking accidental disability benefits pursuant to G.L. 1956 § 45-19-1. It must be noted that the rule

was designed to reconcile the unique nature of the litigation under G.L. 1956 § 45-21.2-9 with other litigation before the Workers' Compensation Court. Initially, it must be noted that the amendment to the statute did not set forth a time within which a party may pursue an appeal to the Workers' Compensation Court. Effective July 2013, legislation was enacted providing that a party aggrieved by the decision of the retirement board shall file an appeal with the court within twenty (20) days. The parties should also be aware that the terms "pretrial conference" and "pretrial order" as used in the Act are vastly different than the common usage. G.L. 1956 § 28-35-20 sets forth the procedure for the pretrial conference under the terms of the Act and the requirement that the court enter a pretrial order following the pretrial conference. It mandates that the pretrial order address the relief sought in the petition and shall be binding upon the parties upon entry. Any payments ordered shall be made within fourteen (14) days of the date on which the order was entered. Moreover, the pretrial order remains in full force and effect until a final decree is entered by the court. Thus, the pretrial conference is a significant milestone in any workers' compensation case and the parties should be ready to proceed on the date set for hearing. This portion of the statute was reviewed by the Rhode Island Supreme Court in City of Pawtucket v. Pimental, 960 A.2d 981 (R.I. 2008).