

Railroad Retirement Board

§ 320.39

record will include the applications, written statements, reports, and other documents that were used in making the determination under review and any other additional evidence the appellant or any other party to the hearing presents in writing. If a hearing was held in the appeal, the tape recording of the hearing will be part of the record while the appeal is pending. The hearings officer's decision will be based on the record. The entire record at any time during the pendency of the appeal shall be available for examination by any party or by his or her duly authorized representative.

[67 FR 77157, Dec. 17, 2002]

§ 320.30 Decision or report of hearings officer.

As soon as practicable after the completion of the record, the hearings officer shall render his decision, or submit his report to the Board, as may be appropriate in the case. The decision or report shall be based on the record and shall be in writing. Such decision shall contain a brief statement of (a) the issue or issues raised, (b) the evidence submitted, (c) findings of fact, (d) the decision made, and (e) the reasons therefor. Such report shall contain a statement of (1) the issue or issues raised, (2) the evidence submitted, (3) findings of fact, (4) conclusions of law, (5) recommendations as to the decision to be made by the Board, and (6) such discussion of the foregoing as the hearings officer may desire to present to the Board. Within 15 days after rendition of the decision or submission of the report, a copy of the decision or report shall be mailed to each party at the last address of record. In the case of a report, a copy of the transcript of the hearing, if any was held, shall also be mailed to each party.

[Board Order 66-84, 31 FR 10181, July 28, 1966, as amended at 56 FR 65681, Dec. 18, 1991]

§ 320.32 Effect of decision of hearings officer.

A decision of the hearings officer, subject to review as hereinafter provided, shall be binding upon any adjudicating office and upon all parties;

(a) With respect to the initial determination involved, and

(b) With respect to other initial determinations, irrespective of whether they have been appealed, which involved the same parties and which were based upon the same issue or issues determined in the decision of the hearings officer.

[56 FR 65681, Dec. 18, 1991]

§ 320.35 Review of decision of hearings officer on motion of Board.

The Board may, on its own motion, review a decision of the hearings officer on the basis of the evidence previously submitted in the case, and may designate any employee of the Board to take additional evidence and to report his findings to the Board.

§ 320.38 Appeal to Board from decision of hearings officer.

Any claimant aggrieved by a decision of the hearings officer and any base-year employer(s) whose employee was awarded benefits, who participated in the appeal before the hearings officer, may appeal to the Board for review of the decision.

[56 FR 65681, Dec. 18, 1991]

§ 320.39 Execution and filing of appeal to Board from decision of hearings officer.

(a) An appeal to the Board from the decision of a hearings officer shall be filed on the form provided by the Board and shall be executed in accordance with the instructions on the form. Such appeal shall be filed within 60 days from the date upon which notice of the decision of the hearings officer was mailed to the parties. The right to further review of a decision of a hearings officer shall be forfeited unless formal final appeal is filed in the manner and within the time prescribed in this section. Any written request stating an intent to appeal which is received within the 60-day period will protect the claimant's right to appeal, *Provided that* the claimant files the appeal form within the later of the 60-day period following the date of the hearing officer's decision, or the 30-day period following the date of the letter sending the appeal form to the claimant. However, when a party fails to file an appeal before the Board within the time