

§ 258.7

of fact, conclusions of law, and recommendations as to decision. The report may also contain such discussion of the question raised, both legal and factual, as the examiner may desire to present to the Board. A copy of the examiner's report shall be served by the examiner upon each party participating in the hearing by mailing such copy to each such party at the address stated in his or her appearance. Each party shall, within 30 days after the date of mailing to him or her of the examiner's report, file with the Board and serve upon other parties by mailing to their addresses as stated in their appearances such exceptions in writing as he or she desires to make to the examiner's findings of fact and conclusions of law. Each exception shall specifically designate the particular findings of fact or conclusions of law to which objection is taken, and shall set forth in detail the grounds for the objection. General exceptions and exceptions not specifically directed to particular findings of fact or conclusions of law will not be considered by the Board. Exceptions to findings of fact shall make specific reference by page numbers to those portions of the record upon which reliance is placed.

(b) Each party shall have 10 days after receipt of exceptions taken by other parties in which to file with the Board replies to those exceptions. Replies to exceptions to findings of fact shall make specific reference by page number to those portions of the record upon which reliance is placed.

(c) The Board may, upon the application of a party and for cause shown, extend the time for filing and serving of exceptions or filing of replies thereto. The Board will render its decision upon the record, the examiner's report, and such exceptions and replies thereto as are made.

(d) The examiner's report shall be advisory only and the Board may, in any case, exercise its right to reject or adopt the examiner's report in whole or in part or adopt such report with modifications. Findings of fact to which no exceptions are taken will, subject only to the power of the Board upon its own consideration to reject or modify, be presumed to be correct.

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(e) The decision of the Board shall be communicated to the parties participating in the hearing within 30 days of the date upon which the decision of the Board is entered upon its records.

§ 258.7 Board decisions and opinions and dissenting opinions.

The following shall apply to all decisions of the Board except decisions relating to matters of internal administration:

A decision made by at least two members of the Board shall constitute the decision of the Board. The decision of the Board shall be stated in a written opinion filed in the record of the proceedings. A dissenting opinion may be stated by a member of the Board who disagrees with the decision of the Board and any such dissenting opinion shall also be filed in the record of the proceedings.

PART 259—INITIAL DETERMINATIONS AND APPEALS FROM INITIAL DETERMINATIONS WITH RESPECT TO EMPLOYER STATUS AND EMPLOYEE STATUS

Sec.

- 259.1 Initial determinations with respect to employer and employee status.
- 259.2 Parties to determinations with respect to employer and employee status.
- 259.3 Reconsideration of initial determinations with respect to employer or employee status.
- 259.4 Authority to conduct investigations.
- 259.5 Appeals from decisions of the Board.
- 259.6 Finality of determinations issued under this part.

AUTHORITY: 45 U.S.C. 231f; 45 U.S.C. 362(1).

SOURCE: 43 FR 56889, Dec. 5, 1978, unless otherwise noted.

§ 259.1 Initial determinations with respect to employer and employee status.

(a) All requests for a determination with respect to employer or employee status shall be filed with the Secretary to the Board.

(b) The General Counsel of the Railroad Retirement Board or his or her designee shall make the initial investigations with respect to:

(1) The status of any person as an employer under the Railroad Retirement