

Cherokee Nation Code Annotated
Title 85: Workers' Compensation
Chapter 2: Dispute Resolution
§ 47. Arbitration

Cite as: 85 CNCA § 47

A. A final decision made pursuant to 85 CNCA § 6 may be reviewed through arbitration pursuant to this section and the Cherokee Nation Arbitration Act, 12 CNCA § 1301 et seq.

1. An employee disputing a final decision rendered by the employer may within twenty (20) calendar days after the issuance of the written decision by the employer request, in writing, that arbitration be scheduled between the employee and the applicable employer. The request for arbitration shall be sent to the employer's Director of Human Resources or his or her designee.

2. The employee's request for arbitration must include:

a. The name and mailing address of the employee;

b. A brief summary of the relevant facts;

c. A brief statement of the disputed issues;

d. A brief statement of the relief sought; and

e. A copy of the final written decision the employee seeks to have reviewed.

f. A signed declaration that the information submitted is true and correct to the best of the claimant's knowledge.

B. Request for arbitration.

1. A single arbitrator from a list of qualified arbitrators maintained by the Supreme Court may be mutually agreed upon by the claimant and the employer. If an arbitrator cannot be selected from the list the parties may agree on any other arbitrator. If the parties cannot select an arbitrator, then the Clerk of the Supreme Court shall randomly select an arbitrator from the list pursuant to procedures adopted by the Supreme Court.

2. The employee's right to be heard is contingent upon compliance with all requirements, including filing deadlines provided herein.

3. In furtherance of Cherokee Nation's policy to simplify and expedite claims under this Title, arbitrators and Courts shall give deference to unrepresented employees by excusing

honest, non-material or correctable mistakes. Filing deadlines are deemed to be material and non-correctable for purposes of this paragraph.

C. Arbitration costs.

1. The employee shall be required to pay, and submit with the request for arbitration, a One Hundred Dollar (\$100.00) filing fee in order to obtain arbitration; provided that said One Hundred Dollar (\$100.00) fee shall be refunded to the employee if said person prevails at arbitration.

2. Cost of arbitration shall be paid by the employer.

3. If the arbitrator determines that the request for arbitration is frivolous, some or all of the prevailing party's attorney fees and costs of arbitration may be borne by the non-prevailing party as determined by the arbitrator.

Historical Data

LA 08-04, eff. April 21, 2004. Amended LA 31-05, eff. October 16, 2005; LA 21-06, eff. October 19, 2006; LA 20-10, eff. August 15, 2010.