

Contractors' Registration and Licensing Board wants to help you by clearly explaining what it can and cannot do for you to resolve a dispute. Let's consider some of the questions asked by claimant and contractors who will be participating in an administrative hearing.

WHY IS AN ADMINISTRATIVE HEARING HELD?

Because someone has a claim against a registered or non-registered contractor/ licensee and is seeking monetary damages claimed to have been caused by that contractor/ licensee or wants work completed. This is done only after an investigator has tried to resolve the issue or evidence is such that the matter may only be settled with an administrative hearing.

WHAT GOES ON AT A HEARING?

The claimant and contractor/ licensee each have the opportunity to tell the hearing officer their side of the story by offering evidence through testimony, documents, and witnesses.

HOW DO I PREPARE FOR A HEARING?

Consider that the hearing officer is going to reach conclusions solely on the basis of what is seen and heard at the hearing. Parts of the claim filed at the Board may be introduced as evidence and judicial notice taken in regard to the Board's investigative report. The claimant must prove that damages have occurred, that the damages are the fault of the contractor/ licensee, and the dollar value of damages. Any defense the contractor/ licensee offers must also be proven.

WHOSE SIDE DOES THE HEARING OFFICER TAKE?

Neither. The hearing officer's role in the dispute is that of a neutral third party. Each side must present its own case. Judgment is rendered pursuant to the statute, evidence submitted, and testimony heard.



EVIDENCE.

Each side may present evidence including testimony, photographs, estimates, expert witnesses, and relevant information such as inspection reports and other materials. Each side may cross-examine the other at the hearing.

WHAT ABOUT THE BOARD'S INSPECTION REPORT?

It may be considered, along with any other evidence or third party reports.

THIS SOUNDS DIFFICULT, SHOULD I HAVE AN ATTORNEY?

At some hearings, participants appear with attorneys; at others, without. You may be represented by an attorney, but you are not required to; based on the complexity of your claim, this is a decision you will have to make yourself.



WHAT IF A COURT CASE IS PENDING?

If it encompasses the same facts/ claim, we cannot process the claim. It is also important for you to know that we may at any time stop processing a claim if we determine that it would be better suited for the courts because of its nature or complexity. However, if judgment is rendered in court in favor of the claimant, action may be taken on that contractor's registration/ license and fines imposed after an administrative hearing within 30 days of receipt of judgment. Mechanic liens filed in court can be heard by the Board.

WAIT A MINUTE TELL ME AGAIN JUST WHAT IS A HEARING FOR?

First, to determine the merits of the claim. Second, to determine the dollar value of the damages if the claim is found to be valid. Third, to determine corrective measures to be undertaken by the contractor/ licensee, action on the registration/ license and fines could be also assessed.

THERE IS SOMEONE I WANT TO HAVE APPEAR AS A WITNESS, HOW CAN I GET THEM TO ATTEND?

Upon request of the claimant or contractor/ licensee, and showing that requiring the person to appear is reasonable, a subpoena can be issued by the person requesting it, who must have it served and pay the witness, mileage and other fees.

HOW IS THE DOLLAR VALUE OF THE DAMAGES DETERMINED?

The claimant must tell us the amount of damages claimed. Usually this is based on estimates by another registered contractor/ licensee for corrective work. These estimates may not in themselves prove a thing, but they may be used by the claimant in support of the claim for damages at the hearing. The claimant is expected to state an amount claimed for each separate item under consideration at the hearing, even if the estimate lacks a breakdown item by item. If the hearing officer finds that the claimant has been damaged but the monetary value of the damages is less than claimed, a lesser amount may be recommended.

WHAT IF THE CONTRACTOR/ LICENSEE DISAGREES WITH THE CLAIMANT'S ESTIMATE OF DAMAGES?

The contractor will have the opportunity at the hearing to offer evidence in this regard. Both claimant and contractor/ licensee should come prepared to state item-by-item, the cost to correct each item under consideration.

WHAT IF THE CLAIMANT STILL OWES THE CONTRACTOR MONEY FOR THE JOB?

This should be brought out at the hearing. The hearing officer, may reduce recommended damages by any amount shown to be due the contractor/ licensee. If the claimant owes the contractor more money than it would cost to correct the items of complaint, the matter may be dismissed and disposed.

HOW LONG DOES A HEARING TAKE?

Typically, one to two hours, sometimes longer, sometimes less.



WHAT IF ONE SIDE OR THE OTHER DOESN'T SHOW UP FOR THE HEARING?

If the claimant fails to appear, the claim will be dismissed. If the claimant appears but the contractor/ licensee does not, the claimant will still be expected to present a case in the same manner as if the contractor/ licensee had appeared. Burden is on the claimant to prove the case.

WHAT HAPPENS TO CONTRACTS WITH BINDING ARBITRATION CLAUSES?

Once a claim has been submitted to arbitration, then it shall not be subject to the provisions of the contractor's registration/ licensee law. All settlements by arbitration in accordance with R.I. Public Works Arbitration Act, R.I.G.L. 37-16-1 et seq. shall be binding upon participants. Therefore neither party can file a claim with the Board. But after going through arbitration and upon a favorable judgment for the claimant, the claimant may seek review of the contractor's registration/ license, where fines can be assessed and action taken on registration/ license.



WILL THE CONTRACTOR GET ANOTHER CHANCE TO CORRECT THE WORK IF THE CLAIMANT WINS?

Maybe. If the Board determines that the contractor is capable of complying with its recommendations and the contractor/ licensee is currently registered/ licensed. If the contractor is ordered by the Board to do corrective work, however, and the claimant does not want to cooperate, the claim may be dismissed.

WHAT HAPPENS AFTER THE HEARING?

The hearing officer will make recommendations to the Board's administrator, who will issue a proposed order. The proposed order may dismiss the claim, award the full amount sought by the claimant, award a lesser amount, or require some action by the contractor, impose fines or action on registration/ license.

HOW SOON AFTER THE HEARING ARE THE RESULTS KNOWN?

Usually a proposed order will be mailed out within 60 days of the hearing.

WHAT IF ONE SIDE OR THE OTHER DOES NOT AGREE WITH THE PROPOSED ORDER AND WANTS TO CONTEST IT?

Either claimant or contractor/ licensee may file written exceptions within 20 days of the date the proposed order was mailed and must be received by the Board within that time period. Exceptions are specific reasons why the conclusion rendered in the proposed order are wrong, based on the evidence received at the hearing. A filing fee of \$20.00 must accompany the application for processing exceptions.

DO THE EXCEPTIONS START THE WHOLE PROCESS ALL OVER?

Not necessarily, if exceptions are received within the 20 day period, the record of the hearing will again be reviewed; this time by the seventeen (17) members of the Contractors’ Registration and Licensing Board. Each side may offer written or oral arguments to support their positions. However, no new evidence or testimony may be only given argument as to why the proposed order is right or wrong based upon evidence given, at the original hearing. The Board members will make a decision and a final order will be issued or sent back for new hearing.

DO THE BOARD MEMBERS REVIEW EVERY CASE?

No, only if exceptions are received. Otherwise, the Board’s administrator issues a final order as proposed or when appeal rights to the Board are exhausted.

AND IF ONE SIDE OR THE OTHER STILL DISAGREES WITH THE FINAL ORDER?

After the final order is issued by the Board after appeal, either side may petition for judicial review in accordance with Administrative Procedures Act, Chapter 42-35 of the R.I.G.L.. Any person contemplating filing a petition for judicial review should first consult an attorney. Only final orders issued can be appealed to Superior Court.



IF BOARD HAS FOUND THAT THE CONTRACTOR OWES THE CLAIMANT MONEY, THE FINAL ORDER WAS ISSUED, AND APPEAL PERIOD ENDED WITH NEITHER SIDE PETITIONING FOR JUDICIAL REVIEW; WHAT NEXT?

At this time, the Board’s order has become due and payable. The Contractor/ licensee should send payment directly to the claimant with a copy of the payment letter to the Board, to assure no further action is taken on this matter.

IF THE NON-PREVAILING PARTY DOESN’T PAY?

Then the registrant/ licensee or claimant should notify us in writing. Failure to pay on an order of the Board is grounds for revocation, suspension or other action on the registration/ license of a contractors, and the matter could be criminally prosecuted.

The material contained in this pamphlet is not intended to be a complete analysis of the law and rules relating to hearings administered by the Contractor’s Registration and Licensing Board. The law relating to the board is found in the Rhode Island General laws, Chapter 5-65, 5-65.1,5-65.2 5-65-3, and 5-73. The rules relating to the Board are filed with the Secretary of States office or online www.crb.ri.gov. Copies of the law and rules are available upon written request to the Board.

The administrative hearing, like court proceedings, is likely to produce a “winner” and a “loser”. This is true even through both parties come to the hearing expecting to win.

The Board is often asked if there are alternatives to the hearing. You bet there are! The claimant and contractor are encouraged to exhaust every other possible way to resolve the dispute.

Look at it this way: any agreement you are able to reach between yourselves will at least in part make each of you a winner. You the claimant and the contractor/ licensee know more about the problem, more about alternative solutions, more about your own feelings, than any other third party could possibly know. By placing the decision in the hands of a third party, you are saying “we can’t resolve the problem, we want you to do it and we’ll accept your decision win, lose or draw.”

The Contractors’ Registration and Licensing Board registers contractors and subcontractors both residential & commercial and Licenses Commercial Roofers, Home Inspectors, Well Drillers/ Pump Installers, and Underground Utility Contractors. The Board consists of seventeen (17) members appointed by the Governor and an office staff directed by an Executive Director.

To be registered/ licensed, contractors must file an application, sign an affidavit, pay a fee and certify that they have proper insurance coverage. Testing & bonding may be required for licenses and bond.

The cost of operating the Board and staff is paid from the registration/ licensing fees received from contractors, fines assessed and other fees assessed.

Property owners who have problems with contractors sometimes seek the services of the Board as a neutral third party, to help guide the parties toward a resolution of the problems.

When efforts to help through conciliation and mediation fail, the Board offers the administrative hearing as the forum at which the dispute can finally be decided. That’s what this pamphlet is all about.

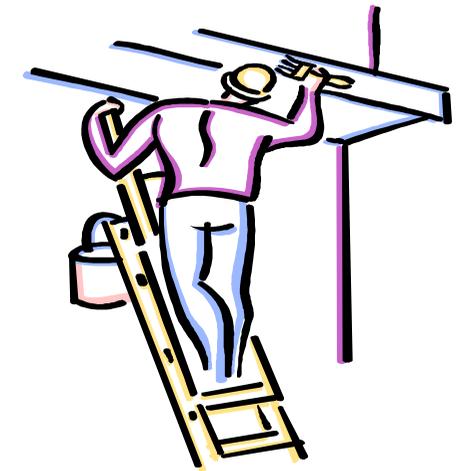
A processing fee of \$25.00 must accompany a statement of claim form.



This Board was established to safeguard consumers’ rights related to contracted improvements to residential property while providing a fair, just and positive environment for the construction industry.

In this pamphlet, “contractor” refers to any contractor who works on structures, including painters, roofer, etc. as well as general contractors, or persons who arranges to have work performed, inclusive of sub-contractors not working under their registration/ licenses.

GOING TO A HEARING?



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