

486—4.70(10A,88) Deposition in lieu of oral testimony—application—procedures—forms—rulings.

4.70(1) An application to take the deposition of a witness in lieu of oral testimony shall be in writing and shall set forth the reasons such deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for purposes of this section, hereinafter referred to as “the officer”). Such application shall be filed with the employment appeal board and shall be served on all other parties and intervenors. Where good cause has been shown, the employment appeal board shall make and serve on the parties and intervenors an order which specifies the name of the witness whose deposition is to be taken and the time, place, and designation of the officer before whom the witness is to testify. Such officer may or may not be the officer specified in the application.

4.70(2) Such deposition shall be taken pursuant to the Iowa rules of civil procedure.

4.70(3) The officer shall immediately deliver the transcript, together with a certificate in person, or by registered mail to the Employment Appeal Board, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321.

4.70(4) The employment appeal board or administrative law judge shall rule upon the admissibility of the deposition or any part thereof.

4.70(5) All errors or irregularities in compliance with the provision of this rule shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, discovered.

4.70(6) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used as other depositions.

This rule is intended to implement Iowa Code chapter 88 and section 10A.601.

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