

875—5.16(88) Hearing examiner; powers and duties.

5.16(1) Powers. The labor commissioner or designee shall preside over the hearing and shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

- a. To administer oaths and affirmations;
- b. To rule upon offers of proof and receive relevant evidence;
- c. To provide for discovery and to determine its scope;
- d. To regulate the course of the hearing and the conduct of the parties and their counsel therein;
- e. To consider and rule upon procedural requests;
- f. To hold conferences for the settlement or simplification of the issues by consent of the parties;
- g. To make, or to cause to be made, an inspection of the employment or place of employment involved;
- h. To make decisions in accordance with the Act and this chapter; and
- i. To take any other appropriate action authorized by the Act or this chapter.

5.16(2) Private consultation. Except to the extent required for the disposition of ex parte matters, the hearing examiner may not consult a person or a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

5.16(3) Disqualification. When the labor commissioner or designee deems appropriate to be disqualified to preside, or to continue to preside, over a particular hearing, the commissioner or designee shall withdraw therefrom by notice on the record, and the commissioner shall designate another.

Any party who deems the commissioner or designee for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the commissioner a motion for disqualification and removal, which shall be supported by affidavits setting forth the alleged ground for disqualification. The commissioner shall rule upon the motion. The decision shall be deemed final for the purposes of judicial review under rule 5.24(88).

5.16(4) Contumacious conduct; failure or refusal to appear or obey the rulings of the hearing examiner. Contumacious conduct at any hearing before the hearing examiner shall be ground for exclusion from the hearing.

If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

5.16(5) Referral to Iowa rules of civil procedure. On any procedural question not regulated by the Act or this chapter, the hearing examiner shall be guided to the extent practicable by any pertinent provisions of the Iowa rules of civil procedure.