

WEST VIRGINIA DIVISION OF LABOR
WAGE & HOUR SECTION

EMPLOYEE WAGE COMPLAINT (RFA) PROCESS

Wage payment investigations are initiated when an employee files a Request for Assistance (RFA) with the Wage & Hour Section of the Division of Labor. For a complaint to be accepted for investigation, an employment relationship must exist between the worker and the company involved. Complaints filed by independent contractors or third parties are not accepted.

Filing of the Complaint (RFA)

When filing a Request for Assistance (RFA), the employee must first decide whether to file the complaint using a printed RFA form, or to use the electronic version that's available on our website. The main difference between the two choices is that the electronic version is available to the Division for processing on the next business day, while the printed RFA will take additional time to arrive through the mail. As the electronic version of the RFA does not allow for the submission of attachments, complainants that wish to submit additional information with the complaint form should use the printed version.

Completing of Complaint Form (RFA)

Regardless of which form is used, all areas of the form must be completed. Incomplete or missing information will delay any investigation but when the complainant's or company's contact information is missing or unreadable, there may not be enough information to even assign the complaint.

Some of the more common problems we experience concerning the completion of the RFA involves the following:

- The complaint includes information that is unreadable or otherwise incomplete.
- The information concerning the complainant's contact information is incomplete.
We require a complete name and address for the complainant and when available, a phone number and/or email address for a point of contact. When leaving a phone number, a number where the complainant may be reached during the regular work hours of 8:00 a.m. and 6:00 p.m. is preferred.
- The business name of the employer is required. *Do not confuse the actual name of the business with the name of the business owner, store manager, immediate supervisor, etc. If not available otherwise, the company's legal business name is available on their business license. There should be a posting of that license somewhere at the employer's place of business.*
- The employer's mailing address or contact information is not provided.

- The complainant did not indicate the address or location where the work was performed.
- A description of the type of complaint being filed was not provided.
- The amount of wages or fringe benefits owed was not stated. *When the exact amount is not known, an estimate may be provided.*

Providing Documentation to Support the Complaint

Although not required, complainants that file using a printed RFA may also submit additional evidence to support their complaint along with the RFA. Although filing the complaint electronically doesn't allow for attachments, complainants will be provided the opportunity to provide any information needed to support their complaint later in the investigation. Some examples of the type of documentation that may be useful to support a wage complaint are listed as follows:

- Fringe Benefit Claims – A copy of the company's written policy stating the terms and conditions for how the benefit is earned and paid.
- Commissions – A copy of the company's policy on how they pay commissions as well as any sales records that may apply.
- Unpaid Hours - Any records you may have showing the hours you worked such as personal calendars, schedules, time sheets, etc.
- Unauthorized Wage Deductions - A copy of your check stub or list of deductions as otherwise provided that shows the amount of the deduction taken and how it was described.

Original Documents

When records or documentation of any kind are submitted to the Division, we ask that copies be provided rather than originals. Complainants that do not have the ability to copy their own documents may submit a written request to the Division for their original records to be copied and then returned. Should such instructions not be provided, the Division will not be responsible for the preservation or return of original source documents.

Investigative Procedures

Wage complaints are assigned to a labor compliance officer for investigation. The complainant should expect contact from his or her assigned officer within a few days of being assigned the case to conduct an interview. The interview process is the complainant's opportunity to provide the officer with any information and/or evidence to support his or her claim and to explain the specific violation. The complainant should be prepared to supply the officer with specific information such as the number of work hours that remain unpaid as well as the dates those hours were worked, etc.

Maintaining Contact with the Complainant

The number of times an officer will need to contact a complainant during the investigation varies from case to case. However, the ability to make that contact when necessary is crucial to continuing the investigation. Once an officer has made multiple attempts to contact a complainant without any response, a final written request will be sent to the complainant requesting they contact the officer. If there is no response to that letter within the time frame stated, the case will be closed without further action.

Once the complainant has been interviewed and the complaint found to be under the jurisdiction and authority of the Division, the next step will be for the investigating officer to contact the employer, or former employer, for the purpose of obtaining the records necessary to either verify or dispute the complaint. If the officer determines wages are owed, an audit will be performed and presented to the employer for payment. Non-monetary violations will be presented to the employer either verbally or in writing. Anytime a complaint cannot be substantiated, all parties are notified of that decision and the investigation closed.

While we do not encourage unnecessary phone calls to the investigating officer, we do ask that complainants always report any new information that may be relevant to the investigation. We also ask that the officer be notified should the employer satisfy the complaint after it was filed.