

#### **44.140 Appeal from award or judgment of board.**

- (1) Appeals may be taken by a state agency from all awards of the board where the amount in controversy, exclusive of interest and costs, is more than one thousand dollars (\$1,000). Appeals shall be taken to the Circuit Court of the county wherein the hearing was conducted, provided, however, that an appeal involving a nonresident claimant may be taken by a state agency to the Franklin Circuit Court with the approval of the board. No state agency can appeal any decision of the board without securing the prior approval of the Attorney General. Appeals shall be taken within forty-five (45) days from the rendition of the award, and the method of appeals shall follow as nearly as may be the rules of civil procedure, except the Commonwealth shall not be required to execute bond.
- (2) Any claimant whose claim is one thousand dollars (\$1,000) or greater may within forty-five (45) days after receipt of the copy of the report containing the final decision of the board, file a proceeding in the Circuit Court of the county wherein the hearing was conducted to review the decision of the board. A copy of the filing and complaint shall be served on the Attorney General in the manner provided by the rules of civil procedure.
- (3) The board, the state agency and the claimant shall be necessary parties to such appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires.
- (4) The executive director of the board shall within thirty (30) days after service of the summons file the entire original record properly bound, with the clerk of the Circuit Court, after certifying that such record is the board's entire original record and such record shall be considered by the Circuit Court in its review. If either party requests a transcript of the evidence in writing, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days from the date of the written request.
- (5) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the board. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the board acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of KRS 44.070 to 44.160; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 304, sec. 3, effective July 14, 2000. -- Amended 1984 Ky. Acts ch. 310, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 355, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 291, sec. 1, effective July 15, 1980. -- Amended 1960 Ky. Acts ch. 25, sec. 7. -- Amended 1958 Ky. Acts ch. 52, sec. 3. -- Created 1946 Ky. Acts ch. 189, sec. 9.

**Formerly codified as** KRS 176.360.