**Section 300.1070 Application of the Rules of Evidence, Pleadings, and Procedures in a**

**Formal Hearing**

a) Technical rules of evidence do not apply in a hearing before an ALJ. The decision of the ALJ will be based upon the evidence and testimony. The ALJ may rely upon evidence of a type commonly relied upon by a reasonably prudent person in the conduct of such person's affairs. Absence of employer records required to be made and kept by an employer pursuant to Section 300.630 and Section 10 of the Act will not deny an aggrieved employee recovery of wages or final compensation on the basis that the aggrieved employee is unable to prove the precise extent of uncompensated work or final compensation. An aggrieved employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under Section 300.630 shall not preclude a finding based on the information available that wages or final compensation are due, even though the award may be only approximate.

b) A complete record of all proceedings before the ALJ at the hearing shall be maintained. The record will consist of: a verbatim record of the parties and witnesses; all pleadings, motions, rulings, evidence received, matters officially noticed, offers of proof, objections and rulings on objections; decision and findings of fact; and any ex parte communications.

c) The testimony of a party or witness shall be sworn or affirmed. If a party or witness refuses to consent to the recording of the hearing by the ALJ or refuses to take the oath or affirmation when requested, the participation of that individual in the hearing shall be terminated, and the hearing shall be conducted as if the individual failed to appear.

d) Any document a party intends to introduce into evidence should be served by the party on the other party at least five days before the hearing. Documents previously submitted to the other party during the investigation need not be resubmitted. If the ALJ finds any document was not served or received, the ALJ may proceed or not proceed with the hearing or take such other action as the ALJ deems appropriate. No other written or oral discovery shall be allowed, except in extraordinary circumstances to facilitate or expedite the proceedings, but shall be limited to the specific issue or amount of the claim, as the ALJ deems appropriate.

e) The claimant has the burden of proving by a preponderance of the evidence the merits of the claim.

f) Upon the ALJ's own motion or upon good cause shown by a party, the ALJ may direct the parties or their counsel to meet with the ALJ for a prehearing conference.

(Source: Amended at 47 Ill. Reg. 5406, effective March 31, 2023)