

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 468

H. P. 374 House of Representatives, January 29, 1975
Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Snow of Falmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Concerning Appeals from a Determination that an Employing Unit is an Employer Subject to the Employment Security Law.

Be it enacted by the People of the State of Maine, as follows:

26 MRSA, § 1082, sub-§ 14, is repealed and the following enacted in place thereof:

14. Determination of employer or employment; appeal.

A. The Director of Unemployment Compensation or, if a member of the commission is acting in that capacity, a representative of the commission duly authorized by the commission to do so shall determine whether an employing unit is an employer and whether services performed for or in connection with the business of the employing unit are employment, and shall give written notice of the determination to the employing unit.

B. An employing unit may appeal a determination made under paragraph A of this subsection by filing an appeal with the commission within 15 days after notification of the determination is mailed to the employing unit's last known address as it appears in the records of the commission, and in accordance with such rules and regulations as the commission shall prescribe. If the employing unit fails to perfect such an appeal, the determination shall be final as to law and fact. The commission may review a determination made under paragraph A of this subsection upon the motion of the Director of Unemployment Compensation or, if a member of the commission is acting in that capacity, upon the motion of a representative of the commission duly authorized to do so.

C. Within 15 days after the decision of the commission following an appeal or review as provided in paragraph B of this subsection has become

final, any party to the proceedings before the commission may appeal by commencing an action in the Superior Court of Kennebec County, and any party to the proceeding before the commission shall be made a party thereto. The complaint need not be verified, but shall state the ground upon which relief is sought. A copy of the complaint shall be served upon the commission or upon such person as it may designate. The commission shall certify and file with its answer to the complaint the original or certified copies of all documents and papers and a transcript of all testimony taken in the matter, together with the commission's findings, and decision therein. Upon the motion of any party, the court may order additional testimony or evidence to be offered and, upon the basis of all the evidence before it, shall affirm or reverse the decision of the commission, or remand the matter to the commission for rehearing. An appeal may be taken from the decision of said court to the Supreme Judicial Court in the same manner, but not inconsistent with this chapter, as is provided in civil actions.

STATEMENT OF FACT

The purpose of this Act is to make the procedure for appealing the determination that an employing unit is an employer subject to the Employment Security Law consistent with the procedure for appealing assessments. To that end, the appeal period from the initial determination has been specifically identified, and the venue of appeals has been moved to the Superior Court of Kennebec County.