

amended notice or order within which to file an answer.

§ 1720.245 Content of answer.

(a) An answer to a notice or order shall contain:

(1) Specific admission, denial or explanation of each fact alleged in the notice or, if the respondent is without knowledge thereof, a statement to that effect; and

(2) A brief statement of the facts constituting each defense.

(b) Allegations not answered in this manner shall be deemed admitted.

§ 1720.250 Presumption of hearing request.

When an answer to a suspension notice, a notice of proceedings, or a suspension order is timely filed but a respondent has failed specifically to request a hearing, the answer shall be deemed to constitute such a request.

§ 1720.255 Amendments and supplemental pleadings.

(a) *Amendments.* Prior to the receipt by the Docket Clerk for Administrative Proceedings of an answer to a notice or order, that notice or order may be amended as a matter of course. After the receipt of an answer, the administrative law judge may allow appropriate amendments to pleadings by motion whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.* When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.* The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 1720.260 Prehearing conferences.

(a) Where it will expedite the proceeding, the administrative law judge may direct or allow the parties or their representatives to appear for a conference to consider:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to the pleadings;

(3) Stipulations and admissions of fact and the contents and authenticity of documents;

(4) Expedition in the discovery and presentation of evidence;

(5) Matters of which official or judicial notice will be taken; and

(6) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in evidence in the course of the proceeding.

Prior to the conference, the administrative law judge may direct or allow the parties or their representatives to file memoranda specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the administrative law judge may require the parties to correspond for the purpose of accomplishing any of the objectives set forth in this section.

§ 1720.265 Reporting—prehearing conferences.

Prehearing conferences shall be stenographically or mechanically reported; and the administrative law judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

MOTIONS

§ 1720.305 Motions—filing requirements.

During the time a proceeding is before an administrative law judge, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties.

Such motions shall be signed, addressed to, filed with and ruled upon by the administrative law judge. The provisions of this section need not apply to motions made during the course of a hearing.

§ 1720.310 Answers to motions.

Within 7 days after service of any written motion, an opposing party shall answer or shall be deemed to consent to the granting of the relief asked for in the motion. The moving party shall have no right to reply except as permitted by the administrative law judge or the appeals officer.

§ 1720.315 Motion for more definite statement.

When a respondent is unable to respond to the allegations in a suspension notice, a notice of proceedings, or a suspension order, because such allegations are vague, unclear or otherwise indefinite, motion may be made requesting a more definite statement of the allegations before filing an answer. Such motion shall indicate specifically in what manner the notice or order is indefinite or defective and shall be mailed or submitted to the Docket Clerk for Administrative Proceedings, Room 10278, Department of Housing and Urban Development, Washington, DC 20410, within five days after service of the notice or order.

§ 1720.320 Motions for extension of time.

As a matter of discretion, the administrative law judge or the appeals officer may waive the requirements of § 1720.310 as to motions for extension of time, and may rule upon such motions ex parte. Extensions of time or continuances in any proceeding may be ordered on a motion by the administrative law judge or on the motion of either party for sufficient cause after the policy of the Secretary under § 1720.125 has been considered.

§ 1720.325 Motions for dismissal.

(a) A motion to dismiss may be made at any time until and including the fifth day after the close of the case for the reception of evidence.

(b) When a motion to dismiss, based upon alleged failure to establish a

prima facie case, is made at the close of the evidence offered in support of the notice or order, the administrative law judge may defer ruling thereon until the close of the case for the reception of evidence.

(c) When a motion to dismiss is granted so as to terminate entirely the proceeding before the administrative law judge, the administrative law judge shall file a decision in accordance with the provisions of § 1720.525. If such a motion is granted only as to some allegations or as to some respondents, the administrative law judge shall enter this partial determination on the record and take it into account in the decision.

§ 1720.330 Motions to limit or quash.

Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the administrative law judge to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The administrative law judge shall have the discretion of granting, denying or modifying said motion.

§ 1720.335 Consolidation.

When more than one proceeding involves a common question of law or fact, the administrative law judge may order a joint hearing of any or all of the matters in issue in the proceedings and may make such other orders concerning the proceedings as to avoid unnecessary costs or delay.

DISCOVERY AND EVIDENCE

§ 1720.405 Depositions and discovery.

(a) At any time during the course of a proceeding, the administrative law judge may discretionally order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for the purpose of discovery or to preserve relevant evidence. Insofar as consistent with considerations of fairness and the requirements of due process and the rules of this subpart, a deposition shall not be ordered when it appears that it