



ADMINISTRATIVE RULES OF MONTANA



24.40.917 DISQUALIFICATION DUE TO STRIKE

- (1) For the purposes of 39-51-2305, MCA, and of this rule, the following definitions and interpretations apply:
 - (a) "Grade or class of workers" means:
 - (i) workers who are members of a particular bargaining unit; or
 - (ii) workers whose jobs are similar or integrated or who have substantial mutual interests or similarities in wages, hours, and other conditions of work.
 - (b) "Labor dispute" means any controversy concerning terms, tenure, or conditions of work or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of work, regardless of whether the disputants stand in the proximate relation of employer and employee.
 - (c) "Strike" means a concerted cessation of work by workers in an effort to obtain or to resist some change in conditions of work.
- (2) A worker is participating in the labor dispute if the worker:
 - (a) is picketing, refusing to cross a picket line, or refusing to report for work; or
 - (b) is a member of a bargaining unit that voted to authorize the strike.
- (3) A worker is financing the labor dispute if the worker, or the worker's union, has contributed time or money, directly or through a special assessment:
 - (a) to affect the outcome of the labor dispute;
 - (b) to further the objectives of the strike; or
 - (c) to provide aid or support to the union or workers participating in the strike.
- (4) A worker is directly interested in the labor dispute if, immediately before the strike began, the worker:
 - (a) is of the same grade or class of workers as the workers participating in or financing the strike; and
 - (b) is employed at the same factory, establishment, or premises as the workers who are participating in or financing the strike.
- (5) The factors enumerated in (2), (3), and (4) are not exhaustive. The department may consider factors not listed here to determine a worker's participation, financing, or direct interest in a labor

dispute. The department's determination must be supported by a preponderance of the evidence and as a matter of law.

- (6) If a state or federal agency, or court with jurisdiction, determines that the strike was based on the employer's unfair labor practice or other violation of law pertaining to hours, wages, or other conditions of work, a worker who was disqualified from benefits under this rule will become qualified on the Sunday of the week the determination of the employer's unlawful conduct is made.
- (7) If no violation of law is found under (6), a worker who is disqualified from benefits under this rule will remain disqualified until the end of the week in which:
 - (a) the strike is abandoned, and the worker, or the worker's union, makes an unconditional offer to return to work; or
 - (b) there has been a complete and bona fide termination of the work relationship between the worker and the employer. The permanent replacement of a striking worker will be considered to constitute a complete and bona fide severance of the work relationship between the worker and the employer only upon a final determination by a state or federal agency or court with jurisdiction to make such a determination that the worker has no rights of reinstatement.

Authorizing statute(s): 39-51-301, 39-51-302, MCA

Implementing statute(s): 39-51-2305, MCA

History: NEW, 2024 MAR p. 1458, Eff. 7/1/24.