

16.193 Appeal of judgment of trial board to Franklin Circuit Court -- Appeal of court's judgment to Court of Appeals.

(1) Any officer of the department found guilty by the trial board of any charge as provided in KRS 16.192 shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court if the punishment is:

- (a) A suspension of more than twenty (20) days;
- (b) A pay reduction of more than ten percent (10%);
- (c) A grade reduction if his classification so warrants; or
- (d) Dismissal from the department.

The enforcement of the judgment of the trial board upon said charges shall not be suspended during the appeal.

(2) To perfect the appeal within the specified time, an officer shall file a copy of the order, all the evidence heard, and a full transcribed record relative to the charges with the Franklin County Circuit Clerk. The officer shall first post a bond to secure the cost of the action in a lump-sum amount to be approved by the circuit clerk, with corporate surety approved by the Department of Insurance as to solvency and responsibility and authority to transact business in this state, or the officer may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to the appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.

(3) The appeal shall be scheduled for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.

(4) No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party involved in the investigation of the charges or a member of the trial board. The court shall sit in appellate jurisdiction and shall not overturn the verdict of the trial board unless it finds:

- (a) The board acted without or in excess of its powers;
- (b) The order appealed from was procured by fraud; or
- (c) If questions of fact are at issue, whether any substantial evidence exists to support the order issued by the trial board. The court shall enter a judgment sustaining or setting aside the order of the trial board. The cost of the action shall follow the judgment of the court.

(5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure. The appeal shall be docketed within sixty (60) days from the entry of judgment, unless the time is extended by the Franklin Circuit Court, but in no event beyond one hundred twenty (120) days from the entry of judgment.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 24, effective July 15, 2010. -- Created 2009 Ky. Acts ch. 75, sec. 8, effective June 25, 2009.