

§5. Injunctions in labor disputes without hearing prohibited

No court nor any judge or judges of any court may issue a preliminary or permanent injunction in any case involving or growing out of a labor dispute except after hearing the testimony of witnesses in open court with opportunity for cross-examination and after a showing that the injunction is necessary to avoid a substantial and irreparable injury to the complainant's property and that the public officers charged with the duty to protect the complainant's property are unable or unwilling to furnish adequate protection. The hearing shall be held after due and personal notice of the hearing has been given in such manner as the court directs to all known persons against whom relief is sought. [PL 1989, c. 407, §§1, 2 (AMD).]

If a complainant alleges that the issuance of a temporary restraining order before the hearing can be held is necessary to avoid a substantial and irreparable injury to complainant's property, a temporary restraining order may be granted upon the expiration of any reasonable notice as the court may direct by order to show cause but in no case less than 48 hours. [PL 1989, c. 407, §§1, 2 (AMD).]

The order to show cause must specify facts sufficient to justify the court to issue a preliminary injunction. The order shall be based upon testimony under oath or, in the discretion of the court, upon affidavits sworn to before a notary public. The order shall be served upon the party or parties to be restrained. [PL 1989, c. 407, §§1, 2 (AMD).]

The temporary restraining order shall be effective for no longer than 5 days except as provided in this section. If the hearing for a preliminary injunction has begun before the expiration of the 5 days, and if the complainant has shown by clear and convincing evidence that an imminent danger of substantial and irreparable injury to the complainant's property or person will exist if the restraining order is not continued, the restraining order may, in the court's discretion, be continued until a decision is reached upon the issuance of the preliminary injunction. [PL 1989, c. 407, §§1, 2 (AMD).]

A temporary restraining order without notice may be issued only on the condition that the complainant has shown by clear and convincing evidence that an imminent danger of substantial and irreparable injury to the complainant's property or person exists in the absence of a restraining order. The order without notice may furthermore be issued only on the condition that the complainant must first file an undertaking with adequate security sufficient to recompense those enjoined for any loss, expense or damage caused by the issuance of the order, including all reasonable costs and expense for defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court. [PL 1989, c. 407, §§1, 2 (AMD).]

No restraining order or injunctive relief may be granted to any complainant who has failed to comply with any obligation imposed by law which is involved in the labor dispute in question, or who has failed to make reasonable effort to settle the dispute either by negotiation or with the aid of any available governmental machinery of mediation or voluntary arbitration. [PL 1989, c. 407, §§1, 2 (NEW).]

No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, may be held responsible or liable in any state court for the unlawful acts of individual officers, members or agents, except upon clear proof of actual participation in or actual authorization of these acts, or of ratification of these acts after actual knowledge of the acts. [PL 1989, c. 407, §§1, 2 (NEW).]

Nothing in this section may deprive any party of any remedy that may be had at law. [PL 1989, c. 407, §§1, 2 (AMD).]

SECTION HISTORY

PL 1975, c. 460 (RPR). PL 1975, c. 623, §§35-A (AMD). PL 1987, c. 736, §43 (AMD). PL 1989, c. 407, §§1,2 (AMD).

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