**Section 2720.250 Rules of Evidence**

a) Technical rules of evidence do not apply to hearings before Referees. Unobjected to hearsay statements may be considered and given their natural probative value. However, the decision of the Referee will be based on the preponderance of the credible, legally competent evidence in the record.

b) Except for evidence or testimony that would be cumulative or irrelevant to the issue or issues on appeal, the Referee will not, on his or her own initiative, refuse to admit evidence or testimony.

EXAMPLE: During a hearing, the claimant testifies to something that is considered hearsay under the rules of evidence. If the employer does not object, the Referee should allow the claimant to continue his or her testimony uninterrupted. The Referee should then question the employer about the claimant's testimony and then weigh the credibility of both sides.

c) The Referee may, but need not, rule on any objection to the introduction of evidence or testimony, and the Referee will ensure that all objections are duly noted and made part of the record. If the Referee sustains an objection to the introduction of evidence, the Referee will allow the proponent to make an offer of proof in the form of a brief explanation of what the evidence or testimony would show. The Referee may require that an offer of proof be presented in a condensed form to avoid needless repetition and undue length of the hearing record. Any evidence excluded by the Referee will, nevertheless, be placed in the record so that the question of its admissibility may be considered by the Board of Review or a reviewing court.

EXAMPLE 1: During a hearing, the claimant testifies to something that would be considered hearsay under the rules of evidence. The employer's attorney objects on the basis of hearsay. At this point, the Referee can either note the objection but allow the claimant to continue with testimony or rule on the admissibility of the claimant's testimony. If the Referee rules on the employer's objection, and finds the testimony inadmissible, the Referee should allow the claimant to explain what the testimony would show to preserve the claimant's right to appeal the issue.

EXAMPLE 2: During a hearing, the employer attempts to introduce a written statement from a witness who is not present. In the statement, the witness writes that that he observed the claimant violate a rule of the employer. The claimant's attorney objects to the introduction of the written statement as hearsay. The Referee decides to sustain the objection and exclude the written statement. At this point, the Referee should mark the written statement as an exhibit, indicate that the exhibit is not in evidence, and place it into the record.

(Source: Amended at 43 Ill. Reg. 6385, effective May 14, 2019)