

ARBITRATION COMMITTEE

RULES OF PROCEDURE

Introduction

The Rules of Procedure for Arbitration Hearings conducted by the Arbitration Committee have been drawn up so those disputants know before they apply for an Arbitration Hearing by the Committee, which rules will apply.

The Arbitration Hearings conducted by the Committee are provided at no cost to the Association members. One party to the arbitration hearing is required to be a member of the Association.

Upon receiving an application and details of the dispute, the Chairman of the Arbitration Committee will decide whether the Committee will hear the dispute.

The Committee operates at all times within the confines of the Commercial Arbitration Act, S.B.C. 1986, c3, and all subsequent amendments. To protect the impartiality of the Committee members – they are not allowed to discuss with any participant, the details of the case without all concerned in the dispute being present at the same time.

Decision to Arbitrate

Any member of the Vancouver Regional Construction Association, being one of the parties in a potential construction dispute, may apply to the Vancouver Regional Construction Association for the matter in dispute to be placed before the Arbitration Committee.

A copy of these Rules of Procedure are sent to each party for them to consider and decide whether to place the matter in dispute before the Committee.

The Committee will not provide arbitration services to any dispute where a writ has been issued regarding the dispute or the dispute has already been placed before the courts.

Where the parties decide to use the services of the Committee, they are required to complete, sign and return to the Association, the form attached to these Rules of Procedure agreeing that the award made by the Committee will be final and binding on the parties.

A letter must be sent with the signed agreement clearly defining the nature of the claim and the dollar value involved. The Chairman will decide if the dispute outlined in the letter can be arbitrated by the committee. The Chairman will advise the parties and if the dispute is to be arbitrated by the Committee, a date will be established. This date will be at a reasonable time after taking into consideration the time required to assemble all the necessary documentation.

When the date has been established for the arbitration hearing, the parties must submit to the Vancouver Regional Construction Association, within seven working days, six copies of a statement setting out the basis of the dispute. Plans, drawings and the like, need not be submitted at this time, but must be brought to the hearing and left with the Committee at that time for as long as the Committee needs them for reference.

The Vancouver Regional Construction Association will forward one complete copy of a particular disputant's submittal to the other party to ensure that each party knows before the arbitration hearing commences, the position of the other.

The Vancouver Regional Construction Association will make sufficient copies of all documents for the use of the Committee members. These copies will be in the hands of each Committee member at least one week prior to the commencement of the arbitration hearing.

The Arbitration Hearing

At the appointed time, all individuals, members of the Arbitration Committee, the disputants and their witnesses will meet.

The order of business will be:

1. Confirmation by the Chairman that each party agree on the points of claim and counter claim to be arbitrated and agree to be bound by the Committee's decision.
2. This is a simple form of arbitration. The members of the Arbitration Committee are active practitioners within the construction industry. The arbitration hearing normally involves practical matters and therefore, the Arbitration Committee insist that the parties present their evidence without the assistance of legal counsel. However, legal counsel may attend to advise their client if deemed necessary.
3. Each party (Claimant and Defendant) will be invited to present their case without interruption. They may, if they so desire, call witnesses in support of their position.
4. The claimant will first make their presentation then the defendant will be invited to make their presentation and rebuttal without interruption.

5. The claimant is then permitted without interruption, to give a rebuttal on evidence presented by the defendant.
6. The Chairman and Committee members are allowed at all times to ask questions to clarify any point raised during the presentation of evidence.
7. When each party is satisfied that they have made a full presentation, each member of the Arbitration Committee will be at liberty to ask questions of all parties and the respective witnesses.
8. On completion of the presentation of evidence and cross examination of the parties and their witnesses, both parties will be asked to leave so that the Arbitration Committee can commence their deliberations.
9. Before dismissing the disputants, the Chairman will summarize the matters in the dispute and obtain the agreement of the parties to such summary.
10. All documents brought to the Arbitration hearing, including plans, specifications and other information, will be left with the Arbitration Committee for reference. At the conclusion of the Arbitration, once the award has been made, all documents left with the Arbitration Committee will be returned to the various parties.

The Award

Following the presentation of the evidence, the Arbitration Committee will meet as long as necessary to deliberate and arrive at a consensus of opinion on the facts of the dispute. Once a conclusion has been reached, the Arbitration Committee, through its Chairman, will write the award and forward copies to the parties.

The Arbitration Committee has thirty (30) calendar days after the arbitration hearing to make its award. At this point, the Arbitration is complete.