

CONTRACT INTERPRETATION MANUAL

Article 10 ARBITRATION

Interpretation Guidelines

LROs, in conjunction with the Coordinators and legal counsel are responsible for arranging arbitrations.

The Union has carriage of all grievances filed, which means the final decision about whether to refer the grievance to a third party is made by the Union, not the grievor. The decision whether to commit a grievance to expedited or full arbitration, is made by the Grievance Assessment Committee (GAC) that meets regularly to review grievances unresolved following the step 2.

Since the formation of the NBA in 1998, all grievances having an Industry Wide Application (IWAD) have to be reviewed by a committee made up of representatives of the Unions that are part of the NBA for final determination with respect to referral to arbitration.

Grievors have the right to appeal the decisions of the GAC in accordance with the Policies and Procedures.

Where the decision of the GAC is to not refer the grievance to third party, a letter is sent to the grievor(s) advising of the outcome and the process they need to follow if they want to appeal the GAC decision.

Article 10.01 - Reference to the BCHOA

Sets out the process for referral to the BCHOA.

1. Provides 2 streams for adjudicating disputes:
 - (a) Expedited: Parties are represented by employees of HEABC/HA and NBA Unions.
 - (b) Full Arbitration: Matters of mutual significance to the parties. These matters are represented by counsel or the parties may elect other representation.
2. Either the Union or HEABC may refer cases to the BCHOA except for matters listed in Article 9.10.
3. BCHOA schedules will be on first referred first heard basis.

Article 10.02 - Expedited Arbitration

All grievances are suitable for expedited arbitration except grievances referred under Article 9.03 or Article 9.07.

Either HEABC or BCNU may require a case be heard at full arbitration provided they notify the other party within 20 days of the scheduled expedited hearing.

Case management meetings are to be held by the Registrar. These meetings can be used to assist the parties to reach agreements, articulate the issues, order disclosure of relevant documents and material facts, and to hear evidence.

The Registrar may make preliminary or procedural orders and may assist with prehearing mediation.

The party with the onus will make the first presentation.

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The Arbitrator will provide a written ruling within 28 days.

These hearings are informal, but the results are binding on the parties.

Additional Resources

Legislation

1. Key provisions of the Labour Relations Code that apply to the arbitration process are:
 - (a) Section 84 requires the inclusion of an arbitration procedure in all collective agreements.
 - (b) Section 86 provides a mechanism for parties to ask the Minister of Labour to make an appointment of an arbitrator if either party fails to choose an arbitrator within the time limits.
 - (c) Section 89 sets out the authority of an arbitrator that includes the ability to relieve against violations of the time limits in the grievance procedure.
 - (d) Section 90 states that the fees and expenses of the arbitrator shall be shared equally between the parties.
 - (e) Section 92 sets out the powers of an arbitrator that include the ability to compel witnesses to appear.
 - (f) Section 99 sets out the appeal process to be followed by either party who wishes to appeal the decision of an arbitrator. However, the grounds for appeal under Section 99 are fairly narrow:
 - i. A party to the arbitration has been or is likely to be denied a fair hearing; or
 - ii. The decision or award of the Arbitration Board is inconsistent with the principles expressed or implied in the Labour Relations Code or any other Act dealing with labour relations.
2. The Labour Relations Board (BCLRB) has the power to set aside the award, remit the matters referred to it back to the original Arbitration Board, stay the proceedings before the Arbitration Board, or substitute a decision or award for the one rendered by the original Arbitration Board.

Footnotes

Article	10
Sub-Article	10.01, 10.02
Last Update	31-03-21
Related Articles	4, 6, 9, Appendix FF