

STANDARD TRACK AND FAST TRACK ARBITRATION

A. STANDARD TRACK

Commercial disputes should not be allowed to drag on for years. If you are already in the court system you may have no choice but to stay there. But if all parties are thinking rationally it usually makes much more sense to arbitrate provided that the arbitration process is fast, reasonably priced and fair. I will make sure this happens.

I will work with all the lawyers to implement the terms of the parties' arbitration agreement and create an efficient, effective and fair procedural order. My sample procedural order is linked on this website.

If you have not yet agreed on arbitration rules I recommend you consider the *ADRIC Arbitration Rules* which are linked here. ADRIC is the ADR Institute of Canada. The most recent iteration of their rules even contain provisions for urgent interim measures, i.e., emergency injunctions: see paragraph 3.7.

I will not allow the arbitration to drag on. We will develop a business-like procedure subject to appropriate fairness requirements.

I will make myself available to deal with any procedural disputes expeditiously, whether by telephone, videoconference or in person, as appropriate.

I will not conduct the arbitration in accordance with the *Rules of Civil Procedure* which are too complicated and cumbersome for most commercial disputes.

Indeed, in appropriate cases, where lawyers consent, the dispute can be dealt with by fast track arbitration (see below) or by standard track arbitration without hearings, or even by way of "boardroom arbitration", i.e., the parties and witnesses turn up together and we will sort the matter out in a boardroom without traditional examinations and cross-examinations. My objective is to resolve disputes between business parties in a businesslike manner.

B. FAST TRACK

We can resolve disputes on a fast track using the simplified procedure, or some variation on it, set out in *ADRIC Arbitration Rules, paragraph 6.2 (below)*. This will allow your dispute to be dealt with efficiently and fairly and without "breaking the bank" within about three months.

While ADRIC's simplified rules contemplate pleading issues being dealt with within 90 days, I recommend that this be reduced to 45 days to expedite matters further. There are no oral discoveries in most cases, although they can be agreed on, if necessary.

In these cases evidence is presented by way of affidavits and with limited cross-examination. I will deliver an award and reasons within 14 days after the hearing has concluded. You will have a speedy and just resolution at reasonable cost and with minimal disruption to your clients' business.

ADR INSTITUTE OF CANADA, INC.
ADRIC ARBITRATION RULES

6.2 SIMPLIFIED ARBITRATION PROCEDURE

6.2.1 If the parties agree in writing, the arbitration must be conducted under this simplified procedure rule.

6.2.2 For arbitrations conducted under this rule:

- (a) the Tribunal is made up of a single Arbitrator appointed by the Institute within 14 days after delivery of the Notice of Request to Arbitrate or the Notice of Submission to Arbitration;
- (b) 14-day time periods set out in Rule 4.10 are abridged to 10 days;
- (c) all pre-hearing and preliminary matters must be complete within 90 days from the date the arbitration commenced under Rule 2.3;
- (d) unless otherwise agreed by the parties or ordered by the Tribunal, there must be no oral discovery;
- (e) no transcript of the proceedings may be made;
- (f) sworn statements of evidence must be filed at the hearing in lieu of examination in chief and are subject to cross-examination and re-examination only;
- (g) the record of the arbitration consists of the Documents and exhibits the parties produce and enter into evidence; and
- (h) the Tribunal must deliver all final awards and reasons within 14 days after the hearing closes under Rule 4.26.1.

6.2.3 The following rules do not apply to arbitrations conducted under this rule:

- 3.1 (Appointment of Arbitrator(s) by parties);
- 3.2 (Appointment of Arbitrator(s) by the Institute);
- 4.9.1(e) (Empowering one Tribunal member to hear motions and make procedural orders); and
- 4.14 (Pre-hearing examinations and written questions).