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Arbitration Act

R.S.A. 2000 c.A-43 Sec. 6,7,8 and 44

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Kenneth F. Bailey, Q.C., Presenter

Court Intervention Limited

6. No court may intervene in matters governed by this Act, except for the following purposes as provided by this Act:

- (a) to assist the arbitration process;
- (b) to ensure that an arbitration is carried on in accordance with the arbitration agreement;
- (c) to prevent manifestly unfair or unequal treatment of a party to an arbitration agreement;
- (d) to enforce awards.

Stay

7(1) If a party to an arbitration agreement commences a proceeding in a court in respect of a matter in dispute to be submitted to arbitration under the agreement, the court shall, on the application of another party to the arbitration agreement, stay the proceeding.

(2) The court may refuse to stay the proceeding in only the following cases:

- (a) a party entered into the arbitration agreement while under a legal incapacity;

Stay . . . continued

- (b) the arbitration agreement is invalid;
 - (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Alberta law;
 - (d) the application to stay the proceeding was brought with undue delay;
 - (e) the matter in dispute is a proper one for default or summary judgment.
- (3) An arbitration of the matter in dispute may be commenced or continued while the application is before the court.



Stay . . . continued

(4) If the court refuses to stay the proceeding:

- (a) no arbitration of the matter in dispute shall be commenced, and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court's refusal is without effect.

Stay...continued

(5) The court may stay the proceeding with respect to the matters in dispute dealt with in the arbitration agreement and allow the proceeding to continue with respect to other matters if it finds that:

- (a) the agreement deals with only some of the matters in dispute in respect of which the proceeding was commenced, and
- (b) it is reasonable to separate the matters in dispute dealt with in the agreement from the other matters.

(6) There is no appeal from the court's decision under this section.

Powers of court

8(1) The court's powers with respect to the detention, preservation and inspection of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

(2) On the application of the arbitral tribunal, or on a party's application with the consent of the other parties or the arbitral tribunal, the court may determine any question of law that arises during the arbitration.

Powers of court...continued

(3) The court's determination of a question of law may be appealed to the Court of Appeal with leave of that Court.

(4) On the application of all the parties to more than one arbitration, the court may order, on terms that it considers just:

- (a) that the arbitrations be consolidated,
- (b) that the arbitrations be conducted simultaneously or consecutively, or
- (c) that any of the arbitrations be stayed until any of the others are completed.

Powers of court...continued

(5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration, and if all the parties agree as to the choice of the arbitral tribunal, the court shall appoint that arbitral tribunal.

(6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.

Remedies - Appeal of award

44(1) If the arbitration agreement so provides, a party may appeal an award to the court on a question of law, on a question of fact or on a question of mixed law and fact.

(2) If the arbitration agreement does not provide that the parties may appeal an award to the court on a question of law, a party may appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that:

Appeal of award...continued

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal, and
- (b) determination of the question of law at issue will significantly affect the rights of the parties.

(3) Notwithstanding subsections (1) and (2), a party may not appeal an award to the court on a question of law that the parties expressly referred to the arbitral tribunal for decision.

(4) The court may require the arbitral tribunal to explain any matter.

Appeal of award...continued

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal and give directions about the conduct of the arbitration.

(6) Where the court remits the award to the arbitral tribunal in the case of an appeal on a question of law, it may also remit to the tribunal the court's opinion on the question of law.



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