

Do We Need Arbitration?

Well, yes and no. There are good reasons to use arbitration, but like any other process there are good points and not so good points.

Let's start off with some basic definitions. Grievance arbitration comes into play when both the employer and the union can't resolve an issue through meetings in the grievance procedure so they agree to submit it to an outsider. That outside party is an impartial individual or panel of individuals who listen to the evidence of the case and make a decision based on what the union and employer present at the hearing. That decision is final and binding.

The case can be disciplinary in nature, such as a member's appeal of a disciplinary action by the employer. Or the arbitration can be over the interpretation and application of the agreement where an individual is not granted a chance to work overtime or given a promotion because the employer has violated the seniority clause of the contract.

Witnesses are questioned and evidence is presented. The arbitrator listens to the case and then gives his or her decision in a few weeks. In an expedited process, the decision may be given right away. Your contract will explain the process and may

include language for a quick or expedited decision.

Why we use it

We may need to use arbitration because sometimes we cannot get resolution at meetings with the employer. Remember, in the grievance procedure, the decision is made by a management representative who can easily say "no." At arbitration, the decision is in the hands of a neutral third party.

An arbitrator's decision can put the employer on notice that a member's rights have been violated and that the union position has now been sustained by an outside party. That carries a lot of weight in other cases. So there are very legitimate reasons to appeal to arbitration.

The down side

The arguments made against the arbitration process are pretty well known. Arbitration takes time. It is an expensive process in money and resources.

Arbitrators can come up with a decision that can hurt the union. They have been known to "split the baby in half" (as in the story of Solomon) leaving both sides frustrated. Some arbitrators don't understand your workplace, so they could issue a deci-

sion that is a quick fix but leaves the issues still unresolved. We must live with the decision—that's what final and binding means. The only real way to change a bad decision is to negotiate better language in the next contract.

Lastly, the process itself sounds like a trial, because advocates present evidence, witnesses are called, briefs may be prepared and the arbitrator sits as a judge. Do we really want to go there?

The bottom line

Almost every local union we represent has a grievance procedure that ends in arbitration. Locals should be using the grievance procedure to maximum advantage—the whole procedure from beginning, middle, and, if necessary the final step, arbitration. No steward should promise to go to arbitration. That's a decision for the local and its screening process. So the message to all stewards is to work for resolution if possible with the immediate supervisor.

But if we have to go to arbitration, our locals are prepared. We work with our local officers, staff, and attorneys to be prepared and ready. Our officers are often better prepared than most employer attorneys because they walk in our shoes—they know the contract backwards, know the workplace, and know the job.

We spend a lot of resources training all of our grievance representatives to try to resolve issues at the lowest level. That is the key to successful grievance resolution. If that is not possible, the local union may choose to appeal the grievance up the procedure to arbitration. The local will make those decisions in a fair and unbiased manner.

But before anyone puts the cart before the horse, stewards and union officers should be looking at ways to resolve grievances so they don't need to go to arbitration.

TWU History

Local 2001 was chartered by TWU on July 1, 1955 to represent workers on the Pennsylvania Railroad and the Hudson and Manhattan Railroad Company.

Today, it represents over 1,600 workers on carriers including Amtrak, PATH, Metro North, New Jersey Transit, Norfolk Southern, and CSX. Here are members working in Sunnyside Yards in New York.



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