



10 essential tips for any commercial arbitration in Ontario

1. Chose an arbitrator who is smart and will ensure both an efficient and a fair hearing, as well as the correct decision. This means the following rules should be satisfied.
2. The arbitrator should be readily available for pre-hearing conferences and to hold the hearing as soon as practicable.
3. The arbitrator should not be prepared to accept any litigation-as-usual rules—especially in the context of proposed oral evidence (oral evidence should be used only where truly necessary and, yes, video is usually perfectly acceptable; and no unnecessary expert evidence).
4. The arbitrator should understand that (even if there is no appeal right) the losing party will always parse the decision to see if it can be challenged successfully because of procedural error, appearance of bias and such like.
5. The arbitrator must know how to—and want to—run not only a fair hearing but also an efficient, cost effective hearing, proportionate to the issues.
6. The arbitrator must be truly independent and impartial (not part of an old boys/girls club associated in any way with some of the other counsel or parties/principals);
7. The arbitrator must not be the type who likes long, expensive hearings. They should prefer short, efficient hearings.
8. The arbitrator must be committed to deciding matters based on law and equity—not horse trading and baby dividing.
9. The arbitrator must be committed to getting a written decision out quickly—no procrastination and no digressions to deal with other matters while the parties stew, waiting for their decision.
10. The arbitrator should be flexible in matters of procedure and timing.