

Adjudico

• EXPERT SERVICES •

Special
Bulletin
#3

Adjudication Awareness Bulletin (November, 2018) Parties & Procedures of Adjudication, Frequently Asked Questions!

This Adjudication Awareness Bulletin is in respect to the Construction Act that came into force in Ontario in 2017.

1. Suspension of Work: A Party not paid after the Adjudicator's decision to be paid can suspend work until it is paid?

Yes

2. Matters of Adjudication: Can the parties decide what can be adjudicated?

Yes

3. Subcontractor Rights: Do Sub-subcontractors have the right to refer disputes to adjudication?

Yes

4. Preferred Adjudicator: Can the parties agree to an Adjudicator that is not listed on the registry maintained by the ANA?

No

5. Singular Adjudication: Can the parties name an Adjudicator in the Contract?

No

6. Adjudicator Fees: The parties must decide on the Adjudicator's fees before receiving the Adjudicator's determination?

No – prior to commencement of adjudication, the fee is either agreed by the parties and the Adjudicator or failing this, the fee is set by the ANA

7. Loser Pays: The losing party shall pay the Adjudicators fee?

No – unless otherwise determined by the Adjudicator, the fee is split equally between the parties

8. Hired Help: The Adjudicator CANNOT seek the assistance of an accountant, building contractor, architect or engineer in reaching a determination of FACT?

No – the Adjudicator CAN seek such assistance

9. Admissibility of Determination: The Adjudicator's determination and reasons are NOT admissible as evidence in court?

No – the Adjudicator's determination is admissible as evidence in court

10. Termination of Adjudicator: After the notice to adjudicate and before the determination, the parties CAN terminate the adjudication?

Yes

11. Binding Determination: Adjudication decisions are binding until a different determination by court or arbitration or written agreement between the parties?

Yes

12. Adjudicator Immunity: Is the Adjudicator protected from legal action i.e. does it have immunity?

Yes

13. Adjudicator Testimony: The Adjudicator is compelled to testify in a court or arbitration for a matter that was subject of an Adjudication?

No

Watch this space: Further Adjudication Awareness Bulletins will follow!

Note: This Adjudication Awareness Bulletin is issued for informational purposes only and does not constitute legal advice. Further, Adjudico Inc. is not liable for reliance by any party in respect of any and all statements contained within this Adjudication Awareness Bulletin.

www.adjudico.ca