

Canadian
Transportation
Agency



Office
des transports
du Canada

Resolving Disputes Through Mediation



Canada



INTRODUCTION

The Canadian Transportation Agency's mandate includes an authority to resolve various transportation disputes and complaints. The Agency, a quasi-judicial body, is committed to enhancing its service by seeking new ways to resolve disputes. Since June 2000, the Agency has provided mediation services to parties upon request. Mediation can be used to resolve disputes in various transportation modes, for issues encompassing the Agency's formal mandate and its areas of expertise. The Agency's goal in offering mediation is to facilitate dispute resolution by providing parties with an effective alternative to the more formal adjudicative process.

WHAT IS MEDIATION?

Mediation is a voluntary, informal and collaborative process for solving problems. This process helps parties jointly make decisions about ways to address the issues in dispute, so that they can negotiate a mutually beneficial settlement. The parties to the mediation ultimately determine the outcome. Mediation is a flexible tool that enables parties to collaboratively develop a solution that meets their needs and that might not be available under the adjudicative process.

WHAT ARE THE BENEFITS OF MEDIATION?

Mediation provides parties with a dispute resolution process that is:

- inexpensive
- quick
- voluntary
- collaborative
- flexible
- effective

WHAT IS THE ROLE OF THE MEDIATOR?

The mediator's role is to centre discussions on interests, not positions, so that parties may negotiate a mutually beneficial settlement. The mediator keeps the discussion focused and improves the lines of communication.

The mediator also provides feedback on ideas generated and encourages parties to fully examine all options presented. He or she may also make the parties aware of the possible outcomes, based on precedents, of a formal decision available through the Agency's traditional dispute resolution process.

WHO ARE THE MEDIATORS?

A member or staff of the Agency trained in mediation and experienced in the transportation sector will be appointed by the Chairman to act as mediator in a particular case. If a case is not resolved through mediation, the Member or staff involved in the mediation will not participate in the case if it proceeds through the Agency's traditional process.

HOW DO I BEGIN THE MEDIATION PROCESS?

Application

Parties in a dispute may ask to have their disputes settled by mediation. Parties may submit a *Request to Mediate* form to the Agency either individually or jointly. If an individual request is made, the Agency will contact the other party to determine whether it is willing to have the dispute resolved through mediation. Parties should submit a brief outline of the dispute and any relevant documents to the Agency. The same information should also be sent to the other party.

Mediation

The mediator will contact the parties to discuss the ground rules, processes for exchanging information, the time and location of mediation, as well as any other appropriate matter. Mediation will take place in a neutral location that is satisfactory and convenient to the parties. The parties and the mediator will establish the duration of the mediation. During the mediation sessions, parties will try to reach a common definition of the facts and issues and to generate and explore various options for resolving areas of disagreement, with the mediator's help. The parties themselves will decide on the solution, as the mediator does not impose a solution.

Settlement

The mediator may assist by preparing the minutes of settlement of the main points decided during the negotiations. If the parties reach a partial settlement, the remaining issues may then return to the Agency for resolution through the traditional process. If a settlement is not reached through mediation, the entire file may return to the Agency.

HOW IS CONFIDENTIAL INFORMATION TREATED?

The mediation process is informal. The parties must agree in writing beforehand that all information disclosed will remain confidential; this allows parties to openly express their views. Measures will be put in place to ensure that all material presented remains confidential. If there is no settlement and the matter is referred back to the Agency, the mediator cannot discuss any part of the file with his or her colleagues and will be excluded from the case if it goes before the Agency. The mediator cannot be compelled to produce information or to testify regarding information obtained during mediation.

HELPFUL FORMS AND PUBLICATIONS

Forms

- Request for Mediation
- Agreement to Mediate
- Roles, Rights and Responsibilities of the Mediation Participants
- Mediation Ground Rules

Publications

- Canada Transportation Act
- Canadian Transportation Agency Annual Report
- The Canada Transportation Act and the Rail and Marine Branch
- The Agency's Performance Report

The forms and publications are available on the Agency's Internet site. You can find additional information about the Agency and its responsibilities, decisions and orders on that site, at the following address:

www.cta.gc.ca



For more information, please contact:

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