

FREQUENTLY ASKED QUESTIONS - INTEREST ARBITRATION

On Friday May 16, 2025, your Negotiating Committee met with the Ontario Sheet Metal Contractors' Association (OSMCA). Ultimately, it was agreed that the parties would refer the few remaining matters in dispute to binding arbitration in order to prevent a strike from commencing.

Referring the remaining matters to arbitration will allow members across the province to continue to work (increases achieved through interest arbitration will be applied retroactively), while your negotiating committee and Union prepare its best case for the upcoming arbitration.

We understand that many of you may not be familiar with interest arbitration. In order to assist, we have prepared the following Frequently Asked Questions.

1. What is Interest Arbitration?

Interest Arbitration is a process to address an impasse in negotiations at the bargaining table.

In some industries and sectors, interest arbitration is mandated by legislation. It is not mandated by legislation in the ICI construction sector.

Your Sheet Metal Negotiating Committee and the OSMCA have agreed to enter into voluntary interest arbitration to resolve the outstanding issues in dispute for the Sheet Metal ICI Agreement, rather than engaging in a strike.

2. How does the process work?

The specific process itself can take various forms depending upon what is agreed to by the participating parties.

In this case the Union and OSMCA have agreed to refer the remaining matters in dispute to be determined by an arbitrator through a formal hearing.

The main issue that remains in dispute is the monetary package and whether that package should include pension and benefits earned at overtime rates.

The Union and OSMCA will be given the opportunity to present evidence and arguments on the issues in dispute before the arbitrator.

3. Who/ what is an Arbitrator?

The arbitrator is an impartial third-party agreed to by the Union and OSMCA to make a determination with respect to the issues in dispute. The arbitrator's decision is final and binding on the participating parties. We have agreed to appoint Bernard Fishbein, former Chair of the Ontario Labour Relations Board, as the arbitrator for this arbitration.

4. What authority does the Arbitrator have?

The arbitrator only has the authority given to them by the participating parties. In this case the arbitrator has been tasked with resolving only the remaining issues in dispute identified by the Union and OSMCA.

The arbitrator does not have any authority with respect to other terms and conditions of the Sheet Metal ICI Collective Agreement, including those which have already been resolved by the parties in this round of negotiations.

5. How is the decision made?

Interest arbitration is based in part, on the principle that the arbitrator is to try to replicate the outcome that the participating parties would have likely achieved in collective bargaining.

Here Mr. Fishbein will apply the legal principles applicable to interest arbitration and may consider various factors including the economic conditions of the province, historical wages for the Sheet Metal ICI Agreement and the wages of comparator trades in making his determination.

The Union will prepare its case using the above factors, amongst others, in an effort to persuade the arbitrator to order a fair monetary package for its members that will include hours earned on pension and benefits when working overtime.

In order to persuade Mr. Fishbein of the strength in the Union's case, we will be preparing a Brief of Evidence and Argument. This Brief will be prepared by our Legal Counsel and assisted by Labour Economists, Accountants and outside Legal Counsel.

The Preparation of this Brief will take several weeks to prepare and will be filed with the Arbitrator and the OSMCA on June 26, 2025.

6. Have other Trades used Interest Arbitration to resolve impasses in negotiations?

Yes, we will not be the first construction trade union to utilize interest arbitration as a mechanism to resolve an impasse in negotiations.

The IBEW regularly uses a variation of interest arbitration. In particular, the IBEW has used Final Offer Select (FOS) Interest Arbitration including in the 2025 -2028 round of negotiations. In FOS an arbitrator must select between the final offer of the Union and/or of the Contractors Association in its entirety. (i.e. there is no middle ground).

The Painters/Tapers (for their 2022-2025 ICI Agreement) have also used interest arbitration.

Some trade unions have also utilized interest arbitration for non-ICI sector Collective Agreements.

7. Will there be a Ratification Vote?

No. Interest arbitration is a mechanism that is final and binding on the participating parties. This means that there will be no ratification vote process for the 2025 - 2028 Sheet Metal ICI Collective Agreement.

The Union and OSMCA will present their respective cases before the arbitrator who will make a final and binding decision. The results of this decision will form the terms and conditions of the Sheet Metal ICI Collective Agreement.

8. What about future Collective Bargaining?

This agreement by the Union and OSMCA to refer the remaining issues in dispute to arbitration is only applicable to the 2025 - 2028 Sheet Metal ICI Collective Agreement.

9. When will the Arbitrator make a determination?

The parties entered into the agreement on Friday May 16, 2025, to arbitrate the remaining issues in dispute. On Friday May 23, 2025 Mr. Fishbein was appointed as arbitrator for this matter. On Tuesday May 27, 2025 the parties agreed to a tentative schedule to have this matter heard on September 12, 2025 with a decision issued by Mr. Fishbein as soon as possible.

10. Can the parties still come to a Negotiated Agreement?

The Union is still open to negotiating a full and final settlement on all outstanding issues. At this time it is unlikely that there will be further negotiations between the Union and OSMCA. However the Union and OSMCA have agreed to meet for Mediation with Mr. Fishbein on August 28, 2025. This Mediation date was agreed to so that the Union and OSMCA could prepare their respective arbitration briefs and put their best case forward in one last effort to resolve the outstanding matters.