

CAMVAP

Canadian Motor Vehicle
Arbitration Plan



Programme d'arbitrage pour
les véhicules automobiles du Canada

PAVAC

Information Sheet Complaints About Arbitrators

CAMVAP has in place a process for dealing with complaints about arbitrators and will deal with your complaint in a fair and responsible manner. The text of this process is attached from CAMVAP's Statement of Relationship with its Arbitrators.

Who can complain:

Any party to an arbitration can make a complaint about a CAMVAP arbitrator or how the hearing was handled. If a complaint is about hearing practices or procedures it must be made by you or the person who represented you at the hearing. However, if the complaint is about jurisdictional issues an agent who was not present at the hearing may make a complaint on your behalf.

How to complain:

All complaints must be in writing and can be sent by facsimile transmission, e-mail or post. A complaint should clearly set out your concerns. It should identify your CAMVAP case name and number and provide correct contact information for you. A signed Consent Form is also required.

Please be aware that your CAMVAP Arbitrator will receive a copy of your complaint and will be given an opportunity to answer it.

Where to send a complaint:

A written complaint plus signed Consent Form should be sent to the General Manager through the Provincial Administrator or directly to Suite 407, 235 Yorkland Blvd., North York, Canada, M2J 4Y8. Please do not send a complaint to a member of CAMVAP's Arbitrator Review Committee or Board of Directors which only consider complaints once they have been investigated.

Other requirements:

For a complaint to be considered:

- ❖ The complaint must be in writing and received by the General Manager not more than 60 days after the arbitrator's responsibility for the case has come to an end;
- ❖ The case must be over and the jurisdiction of the arbitrator must be at an end. For example, if the arbitrator ordered repairs they must have been done and the 90 day post-repair time period must have expired;
- ❖ You must not be challenging the arbitrator's decision in court by way of an application for judicial review or an appeal or, in Quebec, an annulment; and

- ❖ You must agree not to use the information that comes to your attention through the complaints process for any other purpose.

Challenging an Award in court:

If you believe that the award or result of your hearing was improper because the arbitrator erred in law or erred in his or her assessment of the facts, then you may want to consider a court challenge. This will require you to retain the services of a lawyer and/or consult the Arbitration Act in your Province or Territory or the Code of Civil Procedure in Quebec for the appropriate requirements for such a challenge. CAMVAP will not initiate a court challenge of the arbitration award on your behalf.

An Important Choice:

If you are dissatisfied and want to take the matter further, you must choose *EITHER* CAMVAP's complaints process *OR* a court challenge. You cannot do both. As part of the CAMVAP's complaint process you will be required to confirm in writing that the matter is not and will not be the subject of a court challenge.

How the complaint is handled:

In the first instance, your complaint is handled outside of CAMVAP. An independent Arbitration Specialist, retained by the program, will contact you about your complaint.

If your complaint has merit or is appropriate, the Arbitration Specialist will gather information about it, including the Arbitrator's response. After evaluating the information, the specialist will reply to you by means of a written report and indicate whether the complaint is substantiated in whole or in part. The specialist may also make recommendations about the Arbitrator or, more generally, to the CAMVAP program. CAMVAP's Arbitrator Review Committee then considers the specialist's report and makes a recommendation to CAMVAP's Board of Directors. It is the Board that makes a final decision about the matter. You will receive a copy of the Arbitration Specialist's report and be told what the Board of Directors finally decided.

On the other hand, if your complaint is without merit or not appropriate (such as if you just don't like the result or if you have misunderstood the Arbitrator's role and powers), the Arbitration Specialist may return it to you with an explanation but without investigating or taking it further.

Possible outcomes of a complaint:

CAMVAP's complaint process is a quality control initiative that helps the program monitor the services of its independent arbitrators. Outcomes for substantiated complaints can range from simple remediation through to removal from the CAMVAP roster. When choosing the complaint process, it is important to remember that it is not like an appeal or judicial review. The result of your arbitration cannot be changed, altered or amended through the complaint process. Nor will the Arbitrator be removed from the case or a new hearing be ordered. These are things that only the courts can do in appropriate situations.

Complaints About Arbitrators

an extract from CAMVAP's Statement of Relationship with its Arbitrators

- 8.1** From time to time, CAMVAP receives complaints about arbitrators. In order to fairly deal with the complaints, the following process is in place.
- 8.2** To be considered,
- a) the complaint must be in writing and received by the General Manager not more than 60 days after the arbitrator's responsibility for the case has come to an end;
 - b) the arbitrator's jurisdiction (including the ninety days after any repairs ordered by the arbitrator have been completed) must be terminated;
 - c) the award must not be the subject of an appeal or a judicial review by either party;
 - d) must originate with or be signed by the consumer or manufacturer's representative who attended the hearing.
 - e) the complaint must be signed by the consumer or manufacturer. If the complaint raises issues arising out of the arbitration hearing, it must also be signed by the manufacturer's representative who attended the hearing;
 - e) the complaint may be originated by the General Manager or continued by the General Manager if it has been discontinued by the parties.
- 8.3** All complaints about arbitrators will be forwarded to the arbitration specialist engaged by CAMVAP. He or she will;
- a) assess the complaint and;
 - i. respond directly to the complainant if the complaint is not appropriate or without merit; or
 - ii. if the claim is appropriate or has merit, acknowledge receipt from the complainant and send a copy of the complaint to the arbitrator for his or her response.
- 8.4** The arbitration specialist will;
- a) review the arbitrator's response, if any;
 - b) seek additional information, if needed, from CAMVAP, the arbitrator or the complainant;
 - c) prepare a response to the complainant with a copy to the arbitrator and CAMVAP; and, if required;
 - i. recommend follow up action with respect to the arbitrator remaining on the roster for the Arbitrator Review Committee's review and decision; and/or
 - ii. make training or other recommendations to CAMVAP based on significant complaints, if needed or appropriate.
 - d) where the matter proceeds to the Arbitrator Review Committee, a copy of the arbitration specialist's recommendations to that Committee, will be sent to the arbitrator. The arbitrator will be afforded an opportunity to provide written submissions for the Arbitrator Review Committee's consideration.

- 8.5** When a matter is forwarded to it, the Arbitrator Review Committee will review the arbitration specialist's recommendations and, where applicable, the arbitrator's written submissions, with respect to the arbitrator's status on the roster and make its recommendation to the Board of Directors.
- 8.6** If the Arbitrator Review Committee determines that removal of the arbitrator from the roster is to be recommended to the Board of Directors where the Arbitration Specialist has recommended lesser alternatives, the arbitrator will be so advised in writing by the committee and allowed one further opportunity to provide additional written submissions. These submissions will be considered by the Arbitrator Review Committee prior to making its recommendations to the Board of Directors.
- 8.7** The Board of Directors will make its determination with respect to the arbitrator's retention or removal from the roster.
- 8.8** During the processing of a complaint and in the best interests of the program, the General Manager may direct the Provincial Administrator to not offer the arbitrator's name up for cases pending the outcome of the review by the arbitration specialist and/or the assessment by the Arbitrator Review Committee or deliberations of the Board of Directors.
- 8.9** As a result of the arbitrator review process, the arbitration specialist will provide recommendations with respect to training and/or information updates to arbitrators for the Board of Directors' consideration.

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COMPLAINTS ABOUT ARBITRATORS

CONSENT FORM

Case No:

Consumer Name:

Arbitrator:

Complaint By:

Complaint Date:

Manufacturer:

**If a Buyback was awarded,
what was the date the vehicle was bought back?**

I/we who make this complaint have read and understand the attached Information Sheet on Complaints Against Arbitrators and the actual wording of the CAMVAP's process. I/we confirm my/our choice NOT to challenge the arbitration award by judicial review, appeal or annulment and consent to our complaint being processed under the CAMVAP's complaint process instead.

I/we understand that the complaint must be in writing and received by the General Manager not more than 60 days after the arbitrator's responsibility for the case has come to an end.

By taking part in CAMVAP's complaint process I/we further agree that none of the information contained in the Arbitration Specialist's report or the decision of the Board of Directors will be used by me/us for any purposes other than as necessary to take part in the CAMVAP complaint process.

Date:

Signature:

Please forward this form with your complaint to the CAMVAP Head Office using one of the following methods:

Fax: 1-800-806-3289 or 416-490-1680 (Toronto calling area)

Email: issues@camvap.ca

Mail: CAMVAP

235 Yorkland Blvd, Ste 407

Toronto ON M2J 4Y8