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GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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CHAPTER 89.

ARBITRATORS.

§ 6210. What may be submitted to arbitrators.

All controversies which can be the subject of a civil action, may be submitted to the decision of one or more arbitrators in the manner provided in this chapter.

(G. S. 1866, c. 89, § 1; G. S. 1878, c. 89, § 1.)

§ 6211. What claims shall not be submitted.

No such submission shall be made respecting the claim of any person to any estate, in fee or for life, to real estate; but any claim to an interest for a term of years, or for one year or less, in real estate, and controversies respecting the partition of lands between joint tenants, or tenants in common, or concerning the boundaries of lands, or concerning the admeasurement of dower may be submitted to arbitration.

(G. S. 1866, c. 89, § 2; G. S. 1878, c. 89, § 2.)

§ 6212. Parties to execute agreement—Form of agreement.

The parties shall appear in person, or by their lawful agents or attorneys, before any justice of the peace, and shall there sign and acknowledge an agreement in substance as follows.

Know all men, that _____ of _____ and _____ of _____ have _____ agreed to submit the demand a statement whereof is hereto annexed, (and all other demands between them as the case may be,) to the determination of _____ and _____, the award of whom or the greater part of whom, being made and reported within _____ from this day, to the district court for the county of _____, the judgment thereon shall be final; and if either of the parties shall neglect to appear before the arbitrators, after due notice given him of the time and place appointed for hearing the parties, the arbitrators may proceed in his absence.

Dated this _____ day of _____ in the year _____.

And the justice shall subjoin to the said agreement his certificate, in substance as follows:

State of Minnesota, }
County of _____, } ss.

Then the above named _____ and _____ personally appeared, (or the above named _____ personally, and the said _____ by the said _____, his attorney, appeared, as the case may be.) and acknowledged the above instrument, by them signed, to be their free act.

Before me,

J. P., justice of the peace.

(G. S. 1866, c. 89, § 3; G. S. 1878, c. 89, § 3.)

An arbitration bond, conditioned that the principal should "well and truly submit, and stand to, and abide by the decision and award of the arbitrators." Washburne v. Lufkin, 4 Minn. 466, (Gil. 362.)

The agreement to submit must be acknowledged before a justice of the peace. An acknowledgment before any other officer will not do. The proper acknowledgment cannot be afterwards waived by the parties, even though that objection is not made on the application to confirm the award, and for judgment on it. A judgment entered on such award is erroneous. Barney v. Flower, 27 Minn. 403, 7 N. W. Rep. 823.

Upon an appeal to this court from a judgment entered upon the award of arbitrators, under the statute, the appellant may make any objection to the validity of the submission, though not raised in the court below; but this court will not hear any matter of error or irregularity in the proceedings after a valid submission,—as that, of three arbitrators, two only acted,—unless the objection was made in the court below. Heglund v. Allen, 30 Minn. 38, 14 N. W. Rep. 57. A description of the demands submitted, as "all demands between the said parties, which either of them has against the other, arising upon a controversy between them upon the claim of said H. for a balance due for build-

ing a dwelling-house for said A. in the years 1877-78, and all claims and demands against them, of any nature and kind, growing out of said building," is sufficient. *Id.*

Informal alteration of submission, see *Foust v. Hastings*, (Iowa,) 24 N. W. Rep. 22.

It is essential that the agreement name all the arbitrators. *Holdridge v. Stowell*, 39 Minn. 360, 40 N. W. Rep. 259.

Where the arbitration was intended to be a statutory arbitration, but it is not valid as such, it cannot have effect as a common-law submission. *Id.*

The agreement is of no effect if the names of the arbitrators are not in it when acknowledged. *Northwestern Guaranty Loan Co. v. Channell*, 53 Minn. 269, 55 N. W. Rep. 121.

§ 6213. Submission of specific demand—Of all demands.

If any specific demand is submitted to the exclusion of others, the demand submitted shall be set forth in the statement annexed to the agreement; otherwise it is not necessary to annex any statement of a demand, and the words in the agreement relating to such statement may be omitted, and the submission may then be of all demands between the parties, or of all demands which either of them has against the other, or the submission may be varied, in this respect, in any other manner, according to the agreement of the parties.

(G. S. 1866, c. 89, § 4; G. S. 1878, c. 89, § 4.)

§ 6214. Submission irrevocable without consent.

Neither party has power to revoke a submission, made as herein provided, without the consent of the other; and if either of them neglects to appear before the arbitrators, after due notice, the arbitrators may, nevertheless, proceed to hear and determine the cause upon the evidence produced by the other party.

(G. S. 1866, c. 89, § 5; G. S. 1878, c. 89, § 5.)

§ 6215. Arbitrators to fix time and place of hearing—Adjournments.

The arbitrators thus selected shall appoint a time and place for the hearing, and shall adjourn the same from time to time as may be necessary; and on the application of either party, and for good cause, they may postpone such hearing to a time not extending beyond the day fixed in such submission for rendering their award.

(G. S. 1866, c. 89, § 6; G. S. 1878, c. 89, § 6.)

§ 6216. Arbitrators to be sworn.

Before proceeding to hear any testimony, the arbitrators shall be sworn, by an officer authorized to administer oaths, faithfully and fairly to hear and examine the matters in controversy, and to make a just award according to law and evidence.

(G. S. 1866, c. 89, § 7; G. S. 1878, c. 89, § 7.)

§ 6217. Time for making award.

The time within which the award shall be made and reported may be varied according to the agreement of the parties; and no award made after the time so agreed upon shall have any legal effect or operation, unless made upon a recommitment of the award by the court to which it is reported.

(G. S. 1866, c. 89, § 8; G. S. 1878, c. 89, § 8.)

The parties to a submission may vary the time for making the award without the formalities prescribed in § 6212. After the award has been filed, the court may entertain all the further proceedings on it in vacation. *Heglund v. Allen*, 30 Minn. 38, 14 N. W. Rep. 57.

See *Northwestern Guaranty Loan Co. v. Channell*, 53 Minn. 269, 55 N. W. Rep. 121.

§ 6218. Award to be in writing, etc.

To entitle any award to be enforced, according to the provisions of this chapter, it shall be in writing, subscribed by the arbitrators making the same, and attested by a subscribing witness.

(G. S. 1866, c. 89, § 9; G. S. 1878, c. 89, § 9.)

That the award is not attested by a subscribing witness does not render it void. *Lovell v. Wheaton*, 11 Minn. 92, (Gil. 57.)

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§ 6219. Award to be filed with clerk of court.

The award shall be delivered by one of the arbitrators to the clerk of the court designated in the agreement, or shall be inclosed and sealed by them, and transmitted to the clerk, and shall remain sealed until opened by the court.

(G. S. 1866, c. 89, § 10; G. S. 1878, c. 89, § 10.)

§ 6220. Award, how disposed of by the court.

The award may be accepted or rejected by the court for any legal and sufficient reason, or it may be recommitted to the arbitrators for a rehearing by them.

(G. S. 1866, c. 89, § 11; G. S. 1878, c. 89, § 11.)

When an award is filed in the district court, the court may recommit it to the arbitrators to make their findings more specific. *Johnston v. Paul*, 22 Minn. 17.

When an award of arbitrators under the statute is filed with the clerk of the district court, the court has jurisdiction, and it is competent for the parties to waive by stipulation all objections to the award on account of formal errors and irregularities, and authorize the clerk to enter judgment on the award at once, without confirmation by the court. *Lovell v. Wheaton*, 11 Minn. 92, (Gil. 57.)

§ 6221. Vacating award—On what grounds.

Any party complaining of such award may move the court designated in such submission to vacate the same, upon either of the following grounds:

First. That such award was procured by corruption, fraud, or other undue means;

Second. That there was evident partiality or corruption in the arbitrators, or either of them;

Third. That the arbitrators were guilty of misconduct, in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or any other misbehavior by which the rights of any party have been prejudiced;

Fourth. That the arbitrators exceeded their powers, or that they so imperfectly executed them that a mutual, final and definite award on the subject-matter submitted was not made;

Fifth. That the award is contrary to law and evidence.

(G. S. 1866, c. 89, § 12; G. S. 1878, c. 89, § 12.)

An award upon an illegal contract is void. *Hall v. Kimmer*, (Mich.) 28 N. W. Rep. 96.

Mistake avoiding the award. *Barrows v. Sweet*, (Mass.) 9 N. E. Rep. 665. Improper communication by one party to the arbitrator, see *Catlett v. Dougherty*, (Ill.) 2 N. E. Rep. 669.

An award will not be set aside on the ground that the arbitrators have not acted on all matters submitted to them, or that they have exceeded their powers, unless the party complaining has been prejudiced thereby. *Daniels v. Willis*, 7 Minn. 374, (Gil. 295.)

If either party to an arbitrament under the statute has any reason to urge why the award of the arbitrators shall not stand, it is his duty to present such reason to the court when the application to confirm the award, and for judgment on it, is made; and if he fails, without excuse, to present it at that time, he cannot afterwards be heard upon it. *Gaines v. Clark*, 23 Minn. 64.

§ 6222. Award may be modified or corrected, when.

Any party to such submission may also move the court designated therein, to modify or correct such award in the following cases:

First. Where there is an evident miscalculation of figures, or an evident mistake in the description of any person, thing or property; referred to in such award;

Second. Where the arbitrators have awarded upon some matter not submitted to them, nor affecting the merits of the decision upon the matter submitted;

Third. Where the award is imperfect in some matter of form, not affecting the merits of the controversy, and where, if it had been a verdict, such defect could have been amended or disregarded by the court.

(G. S. 1866, c. 89, § 13; G. S. 1878, c. 89, § 13.)

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§ 6223. Return of award at term—Attendance of parties.

The award may be returned at any term or session of the court that is held within the time limited in the submission; and the parties shall attend at every such term or session, without any express notice for that purpose, in like manner as if an action for the same cause was pending between them in the same court; but the court may require actual notice to be given to either party, when it shall appear necessary or proper, before it proceeds to act upon the award.

(G. S. 1866, c. 89, § 14; G. S. 1878, c. 89, § 14.)

An award of arbitrators need not be filed in term, nor a term intervene between the submission and the return of the award. *Lovell v. Wheaton*, 11 Minn. 92, (Gil. 57.)

§ 6224. Judgment on award—Costs.

Upon such award being confirmed or modified, the court shall render judgment in favor of the party to whom any sum of money or damages have been awarded, that he recover the same; and if the award has directed any act to be done by either party, judgment shall be entered that such act be done according to such order; the costs of proceedings shall be taxed as in actions; and if no provision for the fees and expenses of the arbitrators has been made in the award, the court shall make a suitable allowance.

(G. S. 1866, c. 89, § 15; G. S. 1878, c. 89, § 15.)

A judgment rendered on an award has the same conclusive effect, and can, if attacked, be impeached, reviewed, or set aside in the same manner and for the same causes, as other judgments in civil actions. *Johnston v. Paul*, 23 Minn. 46.

§ 6225. Record of judgment—Contents thereof.

A record of such judgment shall be made, commencing with a memorandum reciting the submission, then stating the hearing before the arbitrators, their award, the proceedings of the court thereupon in modifying or confirming such award, and the judgment of the court for the recovery of the debt or damages awarded, and that the parties perform the acts ordered by the award, and for the recovery of the costs allowed.

(G. S. 1866, c. 89, § 16; G. S. 1878, c. 89, § 16.)

§ 6226. Record, how filed and docketed—Effect thereof—Appeals, etc.

Such record shall be filed and docketed as records of judgments in other cases, shall have the same force and effect in all respects, be subject to all the provisions of law in relation to judgments in actions, and may in like manner be removed by appeal and reversed, and execution be issued thereupon.

(G. S. 1866, c. 89, § 17; G. S. 1878, c. 89, § 17.)

§ 6227. Costs, how regulated.

If there is no provision in the submission concerning the costs of the proceedings, the arbitrators may make such award respecting the costs as they shall judge reasonable, including therein a compensation for their own services; but the court may reduce the sum charged for the compensation of the arbitrators, if it appears to them unreasonable.

(G. S. 1866, c. 89, § 18; G. S. 1878, c. 89, § 18.)

§ 6228. Testimony under oath—Common-law arbitrations.

The arbitrators shall hear and receive the testimony of either party, under oath; and shall have power to administer all necessary oaths to parties or witnesses appearing before them. Nothing in this chapter contained shall preclude the submission and arbitrament of controversies, according to the common law.

(G. S. 1866, c. 89, § 19; G. S. 1878, c. 89, § 19.)