

CHAPTER 572

ARBITRATION AND AWARD

572.01 WHAT SUBMITTED; SUBMISSION IRREVOCABLE; LABOR DISPUTES.

NOTE: Laws 1939, Chapter 39, added the words "or a labor dispute as defined in the Minnesota Labor Relations Act." See, MSA, c. 179.

Where contracting parties first agree to a statutory arbitration and later make complete submission to an arbitration which does not comply with the statute but which is good at common-law it will be given effect as a common-law arbitration in as much as section 572.01 et seq. expressly allows and confirms arbitration "according to the common-law." *Park Const. Co. v Independent School Dist.* 209 M 182, 296 NW 475.

A contract provision for arbitration of disputes "at the choice of either party" is not self-executing. It may be modified, rescinded, or waived by agreement or acts and the conduct of the parties, and this notwithstanding a further provision that a "decision" of the arbitrators "shall be a condition precedent to any right of legal action." *Independent School Dist. v Hedenberg*, 214 M 82, 7 NW(2d) 511.

Specific performance of an agreement for extra-territorial arbitration. 8 MLR 250.

Historical development of commercial arbitration in the United States. 12 MLR 240.

Federal employers' liability act; misrepresentation of age in securing employment as affecting right to recover for injuries sustained in course of employment. 16 MLR 216.

Denial of relief to party repudiating arbitration agreement. 19 MLR 123.

Minnesota labor relations act of 1939. 24 MLR 794.

Enforceability of award at common law where statutory arbitration is contemplated. Waiver or objection to procedure by subsequent participation. 25 MLR 787.

Arbitration of war contract termination claims. 29 MLR 219.

Constitutional history of industrial arbitration in Australia. 30 MLR 1.

572.02 AGREEMENT.

Building contractor's conduct in failing to demand arbitration of dispute for over a year and in proceeding to trial of action for damages without making such demand or asking for a stay to permit arbitration constitutes a waiver of his right to arbitration. *Independent Schol Dist. v Hedenberg*, 214 M 82, 7 NW(2d) 511.

Arbitrators being the judges of the law as well as the facts under a general submission at common law, their award unless successfully impeached upon some permissible ground, is final and conclusive on the parties. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

Notwithstanding a provision that the arbitrators' decision shall be a condition precedent to right of legal action, either party to an arbitration clause in a building contract may directly or by his acts waive the provision. *Knutson v Lasher*, 219 M 594, 18 NW(2d) 688.

572.03 POWERS AND DUTIES OF ARBITRATORS; FILING OF AWARD.

While arbitrators do not exercise judicial powers they act in a quasi judicial capacity and constitute a private tribunal as between the parties, deciding the law

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as well as the facts. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

Where an agreement to arbitrate provides that a building contractor shall be entitled to interest upon the sum named in the award, and the agreement is abrogated by the parties after the commencement of the arbitration proceedings, the contractor is entitled to interest on the balance due him, less deductions for faulty performance, even if the amount of the deductions is unliquidated, from the date when the balance came due, which in the instant case was that of the commencement of an action to foreclose a mechanic's lien to recover such balance. *Knutson v Lasher*, 219 M 594, 18 NW(2d) 688.

Arbitration of war contract termination clause. 29 MLR 219.

572.04 PROCEDURE AFTER FILING.

If the arbitration is under the common law an action lies on the award; but if a statutory arbitration it is summarily reviewable and enforceable under section 572.04. *Park Const. Co. v Independent School Dist.* 209 M 182, 296 NW 475.

In the absence of a statutory provision, the decisions of common law arbitrators are not subject to judicial review. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

572.05 GROUNDS OF VACATING AWARD.

Arbitrators being the judges of the law as well as the facts under a general submission at common law, their award, unless successfully impeached upon some permissible ground, is final and conclusive on the parties. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

An award cannot be successfully impeached upon the ground of error so palpable as to compel a finding that the arbitrators acted with prejudice and bias and not in the exercise of a fair and impartial judgment where it appears that they decided the questions in dispute either according to well-settled rules of law or according to the equities of the case. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

Perjury as ground for setting aside award after entry of judgment. 20 MLR 428.

572.06 MODIFICATION OF AWARD.

Notwithstanding that under the submission to arbitration the arbitrators were authorized to fix such allowance to themselves as was severable from the arbitration report and subject to correction on review without otherwise affecting the arbitrators award. *Park Const. Co. v Independent School Dist.* 216 M 27, 11 NW(2d) 649.

572.07 JUDGMENT; CONTENTS AND EFFECT; APPEALS.

Constitutionality of statute making right to appear before court conditional upon waiver of right to hearing before board of arbitrators. 14 MLR 406.

Perjury as ground for setting aside award after entry of judgment. 20 MLR 428.