

HEARING PROTOCOL

Pre-hearing Briefs: Arbitrator Williams does not require pre-hearing briefs but they can be requested by the Parties. Also, the collective bargaining agreement (CBA) may include a requirement for a pre-hearing filing and Arbitrator Williams will work with the Parties to ensure that any requirement of the CBA is met.

Pre-hearing Conference: Arbitrator Williams begins the hearing with an off the record discussion for the purpose of ascertaining the issue, assembling documentary evidence and responding to any motions and/or objections. In most cases the pre hearing conference is helpful in expediting the formal hearing.

HEARING (on the record):

Opening

Arbitrator: starts creating the hearing record with a short statement.

First Opening Statement: is reserved for the party with the burden-of-proof. In cases that involve discipline or discharge of an employee, the burden-of-proof is usually assigned to the employer. In cases that involve a claim that contract language has been violated, the burden-of-proof usually is placed on the union.

Second Opening Statement: is reserved for the party that does not have the burden-of-proof. At times, the second opening statement is not made until after the party with the burden-of-proof has put on their case-in-chief.

Case-in-Chief

First Case-in-Chief: the party with the burden-of-proof places its evidence on the record.

Second Case-in-Chief: the party without the burden-of-proof places its evidence on the record.

Rebuttal Evidence: the party with the burden-of-proof places rebuttal evidence on the record, if it chooses to do so.

Closing Argument

Arbitrator Williams' practice is to give the parties the choice of providing closing oral arguments, closing arguments in the form of a written brief or the opportunity to do both an oral closing and provide a written brief. The right to file a rebuttal brief is usually not granted.

Where the Parties choose to do closing oral arguments, Arbitrator Williams uses what he calls the Lincoln-Douglas style of debate: party with the burden-of-proof goes first and the party without the burden-of-proof goes second. The party with the burden-of-proof concludes the hearing with an opportunity to provide only rebuttal argument.

Close of Hearing

Arbitrator Williams closes the hearing upon the completion of final arguments whether those arguments are done orally or in writing. FMCS rules allow him 60 days in which to provide the written decision. However, he is usually successful in completing the award in 30 days.