

**Regulation respecting the procedure
for conciliation and arbitration of accounts
of certified human resource and industrial relations counsellors**

Professional Code

(chapter C-26, s. 88).

DIVISION I

DEFINITIONS AND INTERPRETATION

1.01. In this Regulation, unless the context indicates otherwise,

(a) “Order” means the Ordre professionnel des conseillers en ressources humaines et en relations industrielles agréés du Québec;

(b) “secretary” means the secretary of the Order;

(c) “counsellor” means the member of the Order whose account is the subject of a dispute with a client;

(d) “council” means the council for the arbitration of accounts constituted under Division III;

(e) “syndic” means the syndic, assistant syndic or one of the corresponding syndics of the Order.

R.R.Q., 1981, c. C-26, r. 57, s. 1.01.

1.02. The Interpretation Act (chapter I-16) applies to this Regulation.

R.R.Q., 1981, c. C-26, r. 57, s. 1.02.

DIVISION II

CONCILIATION

2.01. The syndic shall forward a copy of this Regulation to every person who so requests.

R.R.Q., 1981, c. C-26, r. 57, s. 2.01.

2.02. A client who has a dispute with a member of the Order with respect to the amount of an account for professional services must, before seeking arbitration, apply for conciliation by the syndic in sending him by registered mail the form in Schedule 1 duly completed.

R.R.Q., 1981, c. C-26, r. 57, s. 2.02; I.N. 2016-01-01 (NCCP).

2.03. The application for conciliation must be sent before the day on which an action for a claim concerning the account contested is served by the counsellor on the client.

R.R.Q., 1981, c. C-26, r. 57, s. 2.03.

2.04. Within 5 days from the date on which he receives the application for conciliation, the syndic shall send to the counsellor a copy of such application by registered mail.

R.R.Q., 1981, c. C-26, r. 57, s. 2.04; I.N. 2016-01-01 (NCCP).

2.05. The syndic shall proceed with the conciliation in the manner he considers most appropriate.

R.R.Q., 1981, c. C-26, r. 57, s. 2.05.

2.06. The syndic shall send a report of his conciliation to both parties as soon as possible and not later than 30 days from the date of receipt of the application for conciliation.

R.R.Q., 1981, c. C-26, r. 57, s. 2.06.

2.07. Where the conciliation does not result in an agreement between the parties, the client may, within 15 days from the date of receipt of the syndic's report or, in default of such report, within 45 days from the date of receipt of his application for conciliation, have recourse to arbitration in accordance with Division III.

R.R.Q., 1981, c. C-26, r. 57, s. 2.07.

DIVISION III

ARBITRATION

§ 1. — *Submission to arbitration*

3.01.01. A client applies for arbitration by filing with the secretary 2 copies of a "submission to arbitration" drafted in the form prescribed in Schedule 2 duly completed and bearing his signature.

R.R.Q., 1981, c. C-26, r. 57, s. 3.01.01.

3.01.02. Within 5 days from the receipt of the application for arbitration, the secretary shall send to the counsellor, by registered mail, a copy of the submission to arbitration signed by the client.

R.R.Q., 1981, c. C-26, r. 57, s. 3.01.02; I.N. 2016-01-01 (NCCP).

3.01.03. Within 10 days from the receipt of such copy, the counsellor shall sign it and return it to the secretary.

R.R.Q., 1981, c. C-26, r. 57, s. 3.01.03.

§ 2. — *Formation of council*

3.02.01. In order to settle the dispute between the client and the counsellor, the board of directors shall set up an arbitration council composed of 3 members of the

Order and designate a chair from among them. The board of directors shall also appoint a clerk to assist the council in the performance of its duties.

R.R.Q., 1981, c. C-26, r. 57, s. 3.02.01.

3.02.02. The clerk shall notify the arbitrators and the parties of the formation of the council.

R.R.Q., 1981, c. C-26, r. 57, s. 3.02.02.

3.02.03. An application for recusation of an arbitrator shall only be made for one of the causes set forth in article 202 of the Code of Civil Procedure (chapter C-25.01) and must be forwarded in writing to the clerk, the arbitrators and the parties within 10 days from the day on which the party who invokes it becomes aware of the cause for recusation.

The board of directors shall decide the application for recusation and, where applicable, designate a new arbitrator.

R.R.Q., 1981, c. C-26, r. 57, s. 3.02.03; I.N. 2016-01-01 (NCCP).

3.02.04. Before acting, the arbitrators must take the oath of discretion provided in Schedule II to the Professional Code (chapter C-26).

R.R.Q., 1981, c. C-26, r. 57, s. 3.02.04.

3.02.05. In the case of death or inability to act of one of the arbitrators or of the chair, the board of directors shall appoint a new arbitrator or a new chair who will be made acquainted with the record in the presence of the parties.

R.R.Q., 1981, c. C-26, r. 57, s. 3.02.05.

§ 3. — *Hearing*

3.03.01. The chair of the council shall fix the date, hour and place of the hearing. The clerk shall notify the arbitrators and the parties in writing at least 10 days prior to that date.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.01.

3.03.02. The council may ask each party to submit, within a given time limit, a statement of his pretensions with documents in support thereof.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.02.

3.03.03. The council shall convene the parties, hear them, receive their evidence or, if they offer none, record their default.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.03.

3.03.04. The council shall proceed with dispatch to the hearing of the dispute in accordance with the procedure and mode of evidence it considers appropriate.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.04.

3.03.05. The evidence shall not be recorded unless the council or one of the parties so requests. In the latter case, that party shall assume the cost thereof.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.05.

3.03.06. The clerk shall draw up the minutes of the hearing and have them signed by the arbitrators.

Unless they contain a serious and obvious error, the minutes shall constitute, in the absence of proof to the contrary, proof of their content.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.06.

3.03.07. Articles 644 and 648 of the Code of Civil Procedure (chapter C-25.01) apply, with the necessary modifications, to the arbitration held pursuant to this Regulation.

R.R.Q., 1981, c. C-26, r. 57, s. 3.03.07; I.N. 2016-01-01 (NCCP).

§ 4. — *Arbitration award*

3.04.01. The council must render its decision within 60 days following the end of the hearing, unless the parties agree in writing to extend that period.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.01.

3.04.02. The council decides as mediator and renders the decision it considers most appropriate.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.02.

3.04.03. The decision is rendered by the majority of the members of the council; in default of a majority, the decision is rendered by the chair.

The reasons for the decision must be given and it must be signed by the arbitrators who endorsed it; if an arbitrator refuses to sign, the others must indicate such refusal and the decision shall be as valid as if it had been signed by all of them.

The clerk shall forward the decision to the parties without delay.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.03.

3.04.04. The expenses incurred by the parties for the holding of the arbitration shall be assumed by each of them respectively and cannot be claimed by the adverse party.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.04.

3.04.05. The decision must adjudge on the arbitration fees, that is, the costs actually incurred by the Order for the holding of the arbitration. However, the total amount of the arbitration fees shall in no case exceed 10% of the amount which is the subject of the arbitration as fixed in section 3 of the submission to arbitration.

Where an agreement is reached between the parties before the decision of the council is rendered, the latter shall nevertheless adjudge on the arbitration fees in accordance with this section.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.05.

3.04.06. The decision is final.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.06.

3.04.07. The complete record of arbitration is filed with the secretary who, unless expressly authorized by the parties, shall issue a copy thereof in whole or in part only to the latter, their attorneys, the syndic and the members of the board of directors.

R.R.Q., 1981, c. C-26, r. 57, s. 3.04.07.

SCHEDULE 1

(s. 2.02)

APPLICATION FOR CONCILIATION

I, the undersigned,

(name and address)

in person or (where applicable) representing _____
for the purposes of this application, as attested by the authorization annexed
hereto, being duly sworn, declare that:

(1) _____
_____ claims

(name of counsellor)

from me the sum of _____ for professional services rendered between
_____ and _____, as attested by the
account a copy of which is annexed hereto;

(2) I refuse to pay this account for the following reason(s):

but (where applicable) I acknowledge that I owe the sum of _____ for the professional services referred to in such account;

(3) I apply for conciliation by the syndic pursuant to Division II of the Regulation respecting the procedure for conciliation and arbitration of accounts of certified human resource and industrial relations counsellors (chapter C-26, r. 88) of which I declare having received a copy and taken cognizance.

And I have signed

(signature of client or his duly authorized representative)

Sworn before me at _____ this _____ 20_____

Commissioner for oaths

R.R.Q., 1981, c. C-26, r. 57, Sch. 1.

SCHEDULE 2

(s. 3.01.01)

SUBMISSION TO ARBITRATION

Entered into by:

(name and address)

in person or (where applicable) representing _____
for the purposes of this submission, as attested by the authorization annexed hereto, hereinafter referred to as “the party of the first part”, and

(name and address)

member of the Ordre professionnel des conseillers en ressources humaines et en relations industrielles agréés du Québec, hereinafter referred to as “the party of the second part”, who make the following declarations and agreements:

(1) The party of the second part claims from the party of the first part the sum of _____ for professional services rendered between _____ and _____, as attested by the account a copy of which is annexed hereto;

(2) The party of the first part refuses to pay this account for the following reason(s):

but (where applicable) the party of the first part acknowledges that he owes the sum of _____ for the professional services referred to in such account;

(3) The dispute between the parties bears on the entire account or (where applicable) on that part of the account which exceeds that which the party of the first part acknowledges to owe to the party of the second part, namely, the sum of _____;

(4) The dispute between the parties will be settled by arbitration held in accordance with Division III of the Regulation respecting the procedure for conciliation and arbitration of accounts of certified human resource and industrial relations counsellors (chapter C-26, r. 88) of which the parties declare having received a copy and taken cognizance;

(5) The party of the first part renounces to the benefit of any time elapsed with respect to the prescription;

(6) The party of the second part undertakes, for the duration of the arbitration, not to claim before the civil courts that part of the account which is the subject of the dispute;

(7) The arbitration award is binding upon the parties and the rules set forth in Title II of Book VII of the Code of Civil Procedure (chapter C-25.01) apply to its enforcement;

(8) This submission may be annulled only with the written consent of the parties.

(signature of client or his duly authorized representative)

Signed at _____ this _____ 20_____

(signature of counsellor)

Signed at _____ this _____ 20_____

R.R.Q., 1981, c. C-26, r. 57, Sch. 2; I.N. 2016-01-01 (NCCP).

REFERENCES

R.R.Q., 1981, c. C-26, r. 57

S.Q. 2008, c. 11, ss. 212 and 213