

**§953. Failure to arbitrate under agreement**

A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within section 951 may institute proceedings in the Superior Court. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement.

Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law for the service of process in civil actions. The court shall hear the parties, and upon being satisfied that the making of the collective bargaining contract or the written submission agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the collective bargaining contract or the written submission agreement. If the making of the collective bargaining contract or of the written submission agreement for arbitration or the failure, neglect or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial is demanded by the party alleged to be in default, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues in actions not triable of right by a jury or may specially call a jury for that purpose. If the jury find that no collective bargaining contract or written submission agreement for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that a collective bargaining contract or written submission agreement for arbitration was made and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof. [PL 1965, c. 425, §16 (AMD).]

**SECTION HISTORY**

PL 1965, c. 425, §16 (AMD).

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