

## Loss of Use

As an arbitrator, you will sometimes hear cases in which the Recovering Party seeks loss of use damages. Loss of use is defined as “insurance meant to cover the cost of a rental vehicle or other alternative transportation that is used during the time the damaged vehicle is not available for use.”

Loss of use coverage should not be confused with loss of income or loss of revenue claims. Loss of revenue is when a business loses income because of downtime related to the vehicle damages that were incurred due to the loss. Loss of income is for damages a driver or passenger may incur due to injuries from the loss.

Below are some things to consider when hearing a filing in which loss of use damages are sought:

- The Recovering Party could submit evidence to support the loss state allows for the recovery of loss of use. It also might submit evidence in support of the number of days allowed and the daily rate reimbursed for the damages. The Recovering Party may also submit evidence to support its policy has loss of use coverage.
- The Responding Party, if the loss of use damages are disputed, could submit evidence that supports loss of use is not recoverable in the applicable loss state. The Responding Party may also submit evidence to refute the number of days that are being sought or the daily rate the Recovering Party is seeking.

As is always the case, a contention alone is neither true nor false without supporting evidence. All decisions should be based on the arguments presented and evidence submitted to support parties' positions. Last, as the arbitrator, you should not allow your preconceived notions to influence your decision.