

Application to Decertify a Union

Newfoundland and Labrador

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Overview

Decertification basically means getting rid of a union. It happens when a majority of employees no longer support the union or don't want the union to represent them. If you can prove this you can decertify the union. But, there are a few rules you need to follow.

Using our step-by-step instructions, you should be able to decertify your union. If you need help, go to our "Contacts" pages and get in touch with someone listed there. By the way, others may call decertification "revocation of bargaining rights" or "termination of bargaining rights."

Timing your Decertification

You can only apply to decertify the union during an open time period. Also, unless the Labour Relations Board agrees, you cannot apply during a legal strike or lockout. The open time periods are:

- 12 months after certification or 12 months after the union or company gave notice to the other to start bargaining (whichever is later), or
- if someone in your bargaining unit had already applied to decertify the union, 6 months after the Labour Relations Board refused to decertify the union.

Get the Forms

You must make your application in writing and need to use a specific application form (Form 4).

Because you need to prove most of your coworkers don't support the union, you need to collect their names and signatures. Use a petition form or individual employee letters. In our opinion, petitions are easier to use.

Avoid Mistakes

To succeed, you may have to show that your employer wasn't involved in decertifying the union. So, you should make sure that:

- it was not your company's idea to start the application, your application or the purpose of the application was not discussed with anyone from management of your company,
- no one from management offered anyone any reward or benefit for starting or continuing the application,
- no one from management threatened anyone, if they would not support the application, and
- you have not been led to believe your application will be funded in whole or in part by your company.

Gather Support

Check your collective agreement and read the section or definition about "bargaining unit." You will need to collect the names and signatures of at least 40% of the group mentioned in that definition.

You should also remember that it is quite likely that you will have to prove the signatures on your petition were given "freely" and "voluntarily."

Make sure signatures are not gathered during working hours; however, they can be collected when you and the person signing are on break or before or after work. Also, make sure everyone who is signing the document is given a chance to read it first.

Prepare the Forms

To properly complete your application form, you will need:

- The name, address and phone number of: the applicant, your contact person, the union and your employer.
- Approximate number of employees in your company and in your bargaining unit.
- The date the union was certified and the date the collective agreement was signed.
- A brief description about what kind of business your company is involved in.
- A description of your "bargaining unit" (see a copy of your collective agreement).
- Copies of the paragraphs in the collective agreement about its renewal and its term.
- Once you complete the application form, you will need to have a Commissioner of Oaths witness you sign the document. If you don't know where to find a Commissioner of Oaths, contact a lawyer since they are also Commissioners of Oaths in your province.

Deliver the Forms

You can send your decertification documents (your application and petition) by fax, hand-delivery, courier or even registered mail. But, the best way is by fax.

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Conclusion

Once the Labour Relations Board gets your application, it will assign an Officer. They'll contact the union and your company to inform them about your application.

Next, the Officer will investigate your application. Officers almost always look at the "voluntariness" of applications. They'll look to see if your company was involved in any way. If the Officer has concerns, your spokesperson will have to address them at a hearing.

After the investigation, a report will be sent to you, the union and your company. If they have any concerns they can send their objections to the Board.

If no objections are received, any hearing can be canceled. But, if there is a hearing the Board will contact you to find out how many witnesses you'll call and about how long they will each take to present their evidence.

If the Board agrees your application was voluntary, it was made at the right time and at least 40% of employees support it, the Board will call a vote of all employees. If a majority of voting employees vote for decertification, your application will be successful and the union will be decertified. If not, you will remain unionized.



LABOUR RELATIONS BOARD
NEWFOUNDLAND AND LABRADOR

**APPLICATION FOR REVOCATION OF CERTIFICATION
or TERMINATION OF BARGAINING RIGHTS**

- (1) Labour Relations Act
- (2) Public Service Collective Bargaining Act
- (3) Fishing Industry Collective Bargaining Act
- (4) Teacher Collective Bargaining Act
- (5) Interns and Residents Collective Bargaining Act

NB: The Applicant must indicate by , which Act(s) the application is made under.

Between:

Applicant

AND

Respondent

The applicant states:

1. (a) Name of applicant: _____

- (b) Address of applicant: _____

- (c) Name of respondent: _____

- (d) Address of respondent: _____

- (e) Name of employer of employees in the unit: _____

- (f) Address of employer of employees in the unit: _____

2. General nature of employers business: _____

3. Approximate total number of employees of employer: _____

9. Made and signed on behalf of the applicant this _____ day of _____, 19 ____ by:

Signature: _____

I/We declare that the answers to the foregoing questions are true in substance and in fact and make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared by the same

(Signature)

before me at _____

in the District of _____

in the Province of Newfoundland, this

_____ day of _____, 19 ____

(Signature)

A Commissioner, etc.

