

**Forms and Instructions**  
**Application to Decertify a Union**

**Québec**

**Table of Contents:**

Overview ..... 2  
Timing your Decertification..... 2  
Regarding the Forms ..... 2  
Avoid Mistakes..... 3  
Gather Support..... 3  
Prepare the Forms..... 3  
Deliver the Forms..... 4  
Conclusion..... 4

**Terms of Use:**

The LabourWatch web site and all materials provided by LabourWatch are intended to provide information of general interest to the public.

They are not intended to offer legal or consulting advice and accessing information or documents from the LabourWatch web site is not intended to create a lawyer-client relationship.

Although we try to ensure the information we provide is accurate, we cannot guarantee that it is complete, correct, or timely, and make no warranties of any kind. The information on this web site should be used only in combination with appropriate professional advice obtained from a qualified professional who understands your particular situation.

Links to any other web site or reference to any product or service does not suggest or imply an endorsement or recommendation of those products, services or web sites (or the material contained on those web sites).

**Copyright:**

LabourWatch encourages the use of our content including copying, emailing and faxing it as needed by users. Any documents or materials housed on this web site that are the product of organizations other than LabourWatch may be used for personal, non-commercial use.

Employees, whether unionized or not, who want to be more informed, should refer fellow Employees to this website and may certainly download, print, copy, transmit and distribute these materials to fellow Employees or any interested parties by any means whatsoever. You do not need to contact us for permission to do so.

Employers may do the same, for management training and communication purposes, whether within their organization or with other interested parties. In some situations, Employers may provide these materials to their Employees - we suggest that you only do so in consultation with a lawyer.

Unions may do the same, for training and communication purposes, whether within their Union or with other interested parties such as their Members.

## 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 the periods provided for in the Labour Code. You cannot apply during a legal strike or lockout or while a dispute is being considered by an arbitrator. You are allowed to apply for decertification of the Union during the following periods:

- If no collective agreement has been negotiated, 12 months after certification.
- Nine (9) months after the collective agreement has expired.
- If the collective agreement is for a term of less than 36 months, between the 60th and 90th days before the expiry of the collective agreement – that is, only during the 3rd month before the expiry of the collective agreement. If you are in the public or "parapublic" sector, you may proceed between the 240th and 270th days preceding the expiry of the collective agreement. If the collective agreement is for a term of at least 36 months, you may proceed between the 150th and the 180th days preceding the expiration of the collective agreement, that is, only during the sixth month preceding the expiration of the collective agreement. You can also proceed between 150th and the 180th days preceding the sixth anniversary and at every subsequent anniversary of the collective agreement (unless that period falls within the 15 remaining months of the collective agreement).

Please note that, "collective agreement" is meant to include agreements imposed by an arbitrator.

## Regarding the Forms

You must make your application in writing by sending a letter to the Office of the Commission des relations du travail.

Because you need to prove that an absolute majority (50% + 1) of your coworkers don't support the Union, you must collect their names and signatures. You may use a petition form or individual Employee letters.

## Avoid Mistakes

You should choose a person to file an application, as well as a contact person with whom the Commission des relations du travail may communicate. You may choose the same person but you may also appoint an agent or a lawyer to act as your contact person. In general, only the names of the petitioner and of the contact person are published by Commission des relations du travail before the commencement of the hearing, if any.

To succeed you probably will have to prove that your Employer was not involved in the decertification process. That is why you should make sure that:

- It was not your Employer's idea to file such an application;
- Your application or its goal has not been discussed with anyone from your Employer's management;
- No one from management offered anyone any reward or benefit for filing or pursuing the application;
- No one from management threatened anyone that would not support the application; and
- You had not been led to believe that your application would be funded in whole or in part by your Employer.

## Gather Support

You will need to collect the names and signatures of your coworkers as possible. By the way, you may have to prove the signatures on your petition were given "freely" and "voluntarily."

Make sure signatures are not be 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, you will need to collect or prepare the following information:

- The name, address, and phone number of the applicant (who must have signed the petition).
- The name, address, and phone number of your contact person.
- The name, address, and phone number of the Union.
- The name, address, and phone number of your Employer.
- The start date and expiry date of your collective agreement, if any.
- The date the Union was certified, if known (check with the Commission des relations du travail).
- The approximate number of Employees in your bargaining unit.

## Deliver the Forms

You must send your decertification documents (your application letter and petition) to the Commission des relations du travail by hand-delivery, courier or even registered mail.

**Don't fax them.**

You must also send a copy of your application letter to the Union. Again, you can hand deliver it, courier it or send it by registered mail.

Keep proof of delivery at all times.

## Conclusion

Once the Commission des relations du travail receives your application to decertify the Union, it will assign a "Certification Agent" to investigate. The Agent will issue a report and set a date for a hearing, if needed. However, the Commission des relations du travail will first inform the Union and your Employer about your application.

The Agent will likely have meetings at your workplace to interview your coworkers to ascertain, among other things, their willingness to sign the petition and where they signed it. After the investigation, the Agent will prepare a report. You, the Union and your Employer will be given 15 days to object to any findings in the report.

If there are no objections or the Union agrees with your application, no hearing before a Labour Commissioner will be necessary.

However, if a hearing is necessary, the following will happen:

- The Commissioner will investigate your application. Commissioners often look into the "voluntariness" of petitions. Basically, they'll want to make sure that your Employer was not involved in any way. If the Commissioner has any concerns about the way signatures were gathered or about Employer involvement, your spokesperson will have to address these issues at the hearing. You will also have to let the Commissioner know who will be your spokesperson, how many witnesses you'll call and the approximate amount of time you will need for their testimony.
- Within 15 days of that decision, the Union can appeal to the Labour Court. Usually, though, if the Commissioner has had a lengthy and thorough hearing on the issue of the voluntariness of the petition and the true wishes of the Employees, it is unlikely that the Labour Court will interfere with an application that was: voluntary, made at the right time and had enough Employee support, then as a result the Union will be decertified.

So, in order to succeed, you usually will have to demonstrate that your Employer was not involved in any way in your petition.

# Application For Revocation of Bargaining Rights

- Please type clearly. Attach extra pages if necessary.
- Employees wishing to have the bargaining rights of their union revoked should select a person to act as their contact person.

## Applicant information or name of contact person for employees

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_

Home Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Name of Spokesperson (if different from above): \_\_\_\_\_

Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_

Home Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

## Trade Union Information

Full Name: \_\_\_\_\_

Local Number: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Name of Union Contact Person: \_\_\_\_\_

**Bargaining Unit Information**

Is your bargaining unit certified?       Yes       No       Unknown

If no, is there a collective agreement?     Yes       No       Unknown

If yes, please provide a copy of your collective agreement.

Please state the bargaining unit description (or) location(s) where the employees affected by this application are working. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Employer Information**

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Name of Employer Contact Person: \_\_\_\_\_

**Employee Support**

Number of signatures on petition: \_\_\_\_\_

Number of employees in the bargaining unit: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Position: \_\_\_\_\_

Complete and Deliver to:

**Commission des relations du travail**

2<sup>nd</sup> Floor

35, rue de Port-Royal Est  
Montréal (Québec), H3L 3T1

Telephone : 514 864-3646

Fax : 514 873-3112

If these forms have been faxed, the original signed copies must also be forwarded by mail.

