

HOW TO ALBERTA | CONSTRUCTION Decertify A Union - Full Decertification

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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. However, we suggest, in the strongest possible terms, that you only do so in consultation with a labour lawyer who knows your individual situation.

Unions may do the same, for training and communication purposes, whether within their union or with other interested parties such as their Members and or non-Members they may represent.

For help, call LabourWatch TOLL-FREE at

1-888-652-2687

INTRODUCTION

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."

TIME YOUR DECERTIFICATION

You can only apply to decertify the union during an open time period. The most common open time periods are:

If There is a Collective Agreement

- If a collective agreement is up to two years in length, you may apply during the last two months.
- If the collective agreement is for a period of more than two years, the open periods are the last 2 months of the collective agreement as well as in the 11th or 12th month of the 2nd or subsequent year (unless the 11th or 12th months are less than 10 months before the end of the agreement).

If There is No Collective Agreement

- If no first collective agreement is in place, the window opens 10 months after certification.
- If a prior collective agreement has expired and not been renewed, and no new one is in place then you may apply anytime up until a new agreement is in place.
- If the certification of the union was challenged in court, 10 months after the date of the Court's decision.

Note: In the above situations, if there is a strike or lockout, you can apply for a vote, but the Labour Board must agree to let it go ahead – and they can say no.

If the certification of the union was taken to court for something called “judicial

review” and the certification was upheld – then you the open period is 10 months after the date of the court decision rather than 10 months after certification by the Labour Board set out above.

If There is Collective Agreement and No Union Certified

Some employers “voluntarily recognize” a union – this means there was not vote run by the Labour Board where employees decided for or against being unionized. They are simply unionized because the employer wanted it that way. As long as there is no collective agreement – you can apply to the Labour Board for a vote to decertify the union. As soon as there is a collective agreement, then the open time periods are explained in the section above.

GET THE FORMS

You must make your application in writing and need to use a specific Form.

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.

Use the Alberta Labour Relations Board Employee Petition Form LRB6-3 with an Employee Application for Revocation of Bargaining Rights Form LRB05. Both Forms are a part of our Decertification Download along with our instructions. The Forms without full instructions are available at the Labour Board website in our Links section.

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 employer's idea to start the application.
- 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.
- You have not been led to believe your application will be funded in whole or in part by your employer.
- It is better to avoid using equipment at work such as computers, copiers and fax machines for your paperwork. It's a good idea that if you make copies at a store where you have to pay for them – keep all receipts as further proof that

you did not use employer equipment. The union can accuse you of doing that as part of their effort to use a minor technicality to stop your application.

BUILD SUPPORT

You should not use threats or promises or pressure to get fellow employees to sign a support petition. You should think of one or two good reasons why you believe the union should be decertified. A businesslike and friendly approach works best. Remember, once more than 40 percent of your group sign the petition and you file your Application, there will hopefully be a secret ballot vote, supervised by the Labour Board, where every employee in the group can vote in private. Not everyone who signs a petition will necessarily vote for decertification, but some who are reluctant to sign a petition may vote for decertification in the secret ballot vote.

Check your collective agreement and read the section or definition about "bargaining unit." This is often called the "Recognition" clause, and is usually located near the beginning of the collective agreement. 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 petition were given "freely" and "voluntarily."

If you do not use the Labour Board Petition Form (included in our download) because you do your own, it must have a statement that is clear – those who sign are applying to for decertification or revocation of the union's bargaining rights. This statement must be visible to employees signing – don't cover it up. If you do your own form then the statement at the top of the petition must be on your petition before collecting signatures.

If you know or find that employees do not like the idea of signing a petition because their support will be known to others, then we suggest you prepare a copy of the petition with the name of the union and employer filled in. Copy one petition form for each employee and have only one per person.

Those who are gathering signatures must keep possession of the petition forms being used at all times up to filing the Application with the Labour Board. For example, do not leave them out in a break room for your co-workers to sign when they are able to do so.

WITNESS RULES

On the official Labour Board Petition, which you should use, there is a column for a witness signature. Each signature collected to support the petition must be witnessed. It is best if one of the employees that will file the Application is the witness for each signature.

The witness should be another employee in the bargaining unit. If it is not possible for the Applicant(s) to witness signatures, the witness should not be a supervisor or lead hand for the bargaining unit (even if that employee is unionized and in the bargaining unit being decertified). Also, the witness should not be an employee who employees might think of as being really close to management or someone who is related to management (sister, husband, etc).

The witness does not have to be an employee, but it is better. There are a number of reasons, such as: they are usually more available and if there is a hearing it may be harder to get them to come to the hearing because they may have less interest in what happens. The witness must sign after each employee has signed. Do not leave this blank. Do not sign it later – away from the employee.

WHEN TO COLLECT

Make sure signatures are not gathered during work time; however, they can be collected when you and the person signing are on breaks or before or after work. This means it is best to gather signatures and sign the petition before you and the signer are “clocked in” or after you have clocked out. If signing on breaks – just be sure that both of you are on your break. It does not matter if the break is paid or unpaid. Also, make sure everyone who is signing the document is given a chance to read it first.

Why all the suggestions and rules about the wording on the petition, witnesses, when to collect and so on? Because unions often file complaints on decertifications which can lead to hearings at the Labour Board. If the employer knows it is happening on working time and does nothing, the union might accuse the employer of supporting the decertification by “turning a blind eye” to your efforts during work time suggesting that the employer wants everyone to know they support the decertification campaign.

Following our suggestions simply makes it more likely there will be a vote that will be counted right after voting is completed, without a hearing due to union complaints about your efforts.

PREPARE THE FORMS

To properly complete your application Form to become union-free, you will need to collect or prepare the following information:

- The name, address, and phone number of the official applicant. You may decide to have a different contact person and spokesperson. If you do so then you will also need their contact information. You also need the contact information for the union and your employer to properly complete the application Form.
- A description of your "bargaining unit" (see a copy of your collective agreement).
- The relevant certificate number (for the certification of the union), if known.
- Approximate number of employees in your bargaining unit.

DELIVER THE FORMS

You can send your decertification documents (your application and petition) to the Alberta Labour Board by fax, hand-delivery, courier or even registered mail. If you send them by courier or mail remember to keep copies of everything for your records.

We feel that the best way is by fax because it is fast. It is always a good idea to keep a copy of the fax transmittal sheet that confirms that the fax was received by the Board.

The Board will notify your union and employer about your application but they will not share who signed the petition with them.

CONCLUSION

Once the Labour Board gets your application, it will assign an Officer. The Officer will contact the union and your employer 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 employer was involved in any ways that might be inappropriate. 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 employer. If the union or the employer have any concerns they can send them to the Board.

If no objections are received, the Hearing might 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 talk.

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 in the bargaining unit. If a majority of employees vote for decertification, your application will be successful and the union will be decertified.

Votes usually take place within 10 days of the Board receiving your application.

REVOCATION - EMPLOYEE PETITION

WE the undersigned employees of (*name of company*): _____
 have freely signed this application of revocation of the bargaining rights of (*name of union*): _____

WE HAVE EACH SIGNED THIS PETITION FREELY AND WITHOUT PRESSURE

Signature	Name (Please Print)	Address	Home Phone No.	Date of Signing	Witness' Signature
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
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23.					
24.					
25.					

This form is provided by the Labour Relations Board for the convenience of parties in exercising their rights under the Labour Relations Code. **Parties using petitions before the Board will require a spokesperson to establish the authenticity of this petition.** Information about the rights and duties set out in the Labour Relations Code can be obtained through the Board offices.



EMPLOYEE APPLICATION FOR REVOCATION OF BARGAINING RIGHTS

APPLICABLE SECTIONS:
51 OF THE CODE; 18 OF THE ACT

- *Employees may use this form to assist in making a complete application.*
- *For information or assistance in completing this form, refer to Information Bulletin 13 and the Rules of Procedure or call the Labour Relations Board at (780) 422-5926 (Edmonton) or (403) 297-4334 (Calgary).*
- *Please type or print clearly.*
- *Employees wishing to have the bargaining rights of their union revoked should select a person to act as their contact person with the Board. Only the contact person's name will be released to the employer and the union.*

APPLICANT INFORMATION

- *contact person for the employees signing the petition*

Name:

Complete Mailing address:

Fax No.:

Postal Code:

Business Telephone No.:

Residence Telephone No.:

Name of Spokesperson (If different from above):

Telephone No.:

Address (if different from above):

Fax No.:

Postal Code:

TRADE UNION INFORMATION

Legal Name:

Local Number:

Mailing Address:

Postal Code:

Name of Contact Person:

Telephone No.:

Address (if different from above):

Postal Code:

Telephone No.:

Fax No.:

BARGAINING UNIT INFORMATION

- *Describe the bargaining unit for which you are seeking revocation:*

Is there a collective agreement in effect? Yes No

What is the term of the collective agreement: ___(date)___ to ___(date)___

Certificate Number: (if any and if known)

EMPLOYER INFORMATION

- Who is your employer?

Legal Name:

Telephone No.:

Mailing Address:

Fax No.:

Postal Code:

Name of Contact Person (if known):

Telephone No.:

EMPLOYEE SUPPORT

- Attach petition(s) signed by at least 40% of the employees in the bargaining unit represented by the trade union.

Number of petition forms _____

Number of signatures on petition _____

Number of employees in the bargaining unit _____

DECLARATION OF THE CONTACT PERSON OR SPOKESPERSON

- The contact person or spokesperson must sign this declaration to show that the signatures of the employees were obtained freely according to the Labour Relations Code.
- The contact person or spokesperson must be prepared to attend any hearing and verify the authenticity of the petition.

I declare that to the best of my knowledge, the signatures of the employees on the attached petitions were obtained freely and that the information in this application is true and correct.

Signature of Applicant: _____

Printed Name: _____

Date: _____

FOR BOARD USE ONLY:

Board File Number: _____

Checked by _____ Received by _____ Input by _____

Petition(s) Received _____

Signature of Applicant: _____

Printed Name: _____

Date of Signing: _____

Complete and deliver to:

Labour Relations Board
#503, 10808 – 99 Avenue
Edmonton, Alberta
T5K 0G5
Fax: (780) 422 – 0970

Labour Relations Board
#308, 1212 31 Avenue, N.E.
Calgary, Alberta
T2E 7S8
Fax: (403) 297 - 5884

*(Applications can be faxed to the Board.
The Board does not require original applications.)*