

HOW TO FEDERAL AND TERRITORIES | NON-CONSTRUCTION Decertify A Union - Full Decertification

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Employees, whether unionized or not, who want to be more informed, should refer fellow employees to this web site 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. 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 apply to the Canada Industrial Relations Board 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. Also, unless the CIRB agrees, you cannot apply during a legal strike or lockout.

The open time periods are:

WHERE A COLLECTIVE AGREEMENT IS IN FORCE

- If the Collective Agreement is for 3 years duration, or less: during the last 3 months of the collective agreement or any time after the date the collective agreement expired until a new collective agreement is signed.
- If the collective agreement is for greater than 3 years: during the last 3 months of the third year, during the last 3 months of each year thereafter, or during the last 3 months of the collective agreement.
- If the Employer voluntarily recognized the Union: at any time during the first year of the collective agreement. After the first year of the collective agreement, the timing rules set out in (a) and (b) above apply.
- If a collective agreement is for 3 years or less and if the collective agreement has expired and if a new collective agreement has not

been negotiated, a decertification Application may be filed.

WHERE A COLLECTIVE AGREEMENT IS NOT IN FORCE

- If it has been 1 year since the Union was certified by the CIRB, and if the Board is satisfied that the Union has not made reasonable efforts to reach a collective agreement.
- The exact wording from the Board's Circular No. 10-Applications for Revocation is: *"an applicant filing an application for revocation in such circumstances must clearly demonstrate how the certified bargaining agent failed to make a reasonable effort in this regard."*
- In our experience the Union can do almost nothing and still the Board will most likely accept this as *"a reasonable effort"* and thus deny your legal claim to even make an Application for Revocation.

IF AN UNSUCCESSFUL APPLICATION HAS BEEN MADE WITHIN THE PAST 6 MONTHS

- If the Board dismisses an Application for Revocation, no new Application may be made for a period of six months.

WHERE THERE IS A LEGAL STRIKE OR LOCKOUT

- An Application for Revocation cannot be filed during a legal strike or lockout, except in very limited circumstances with the consent of the Board.

GET THE FORMS

You must make your Application in writing and provide certain information. Because the Board does not provide a Form for employees to use to show that they do not support the Union, LabourWatch provides one for you to use.

In order to prove most of your coworkers don't support the Union, you need to collect their names and signatures. **Use the Individual Decertification Form** provided by LabourWatch. It accompanies these instructions as a link at the bottom of this page and as part of the PDF download.

Here is a list of all the forms from the Board that you will need:

- An Application for Revocation.
- A Certificate of Accuracy Form.

This is the form from LabourWatch that you will need:

- Individual Decertification Form.

All of the forms that you need are in the links at the bottom of this page and also as a part of the PDF download.

The forms are also available at the [CIRB website](#).

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 and that management was not involved with 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 company.

Finally, if you can, try to get more signatures on Individual Decertification Forms than the minimum of 50%. Many things could happen to affect whether or not you have the right numbers. For example, there is always a possibility that someone resigns or is fired the day before your Application goes in that you may not even know about. Finally, the more support you have on paper when applying the better chance you have of winning a vote, if you get to have one.

GATHER SUPPORT

You will need to collect the names and signatures from the Unionized employees in the bargaining unit who support decertifying the Union. Employees should be signing off on the fact that they no longer want the Union to represent them and that they authorize you to bring an Application for decertification on their behalf. You will have to collect signatures from employees totalling at least 50% of the bargaining unit. By the way, you may have to prove the signatures were given "freely" and "voluntarily."

When planning to gather signatures, you may want to consider a standard Union approach: gather first from fellow employees who you know or who you think want to decertify the Union, then ask employees who you think could go either way or you just don't know. You may want to leave the Shop Stewards, Bargaining Committee members and other known Union supporters until last or not approach them at all if you can at least get a vote without talking to them. Union supporters and the Union will have time to campaign to keep the Union before any vote.

Make sure signatures are not being 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.

The signatures you gather in support of your decertification Application are only good for **six months** so if you do not get your Application filed before then you may have to go back and get the Individual Decertification Forms re-signed.

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, email address, fax number and phone number of the applicant, your contact person, the Union and the Union representative, and your Employer and your Employer's representative.
- The date the Union was certified and the certificate number, if known (check with the CIRB).
- Approximate number of employees in your bargaining unit.
- A description of your bargaining unit (see your collective agreement).
- The start date and expiry date of your collective agreement.
- Information about any orders or decisions made by the CIRB relating to the decertification Application.

You will complete the following forms:

- An Application for Revocation.
- A Certificate of Accuracy.

DELIVER THE FORMS

TO THE UNION AND THE EMPLOYER

You do not need to deliver any Forms to the Union or your Employer. The Board will notify the other parties after the Board has received your complete Application and supporting documents.

TO THE BOARD

You can send your decertification documents (your Application and Individual Decertification Forms) by hand-delivery or courier. You MUST send originals of your Application and other forms, and your Individual Decertification Forms to the [Regional Office](#) of the Canada Industrial Relations Board (CIRB) that looks after your part of Canada. You may also want to call the Board to ask what office to submit to.

1. The completed Application for Revocation (4 pages)
2. A completed Certificate of Accuracy form (1 page)
3. The Individual Decertification Forms (as many as you have collected – be sure to cut them into individual cards)

CONCLUSION

Once the CIRB gets your Application, it will contact the Union and your Employer to inform them about your Application. If the Union or the Employer have any concerns, they can send them to the Board. Unions quite often write the Board to say that there is or might be Employer involvement. In the end they will have to provide some evidence or try to get the Board to hold a hearing and ask employee and Employer witnesses questions under oath.

The Board will review your Application. The Board almost always looks at the "voluntariness" of Applications. It'll look to see if your Employer was involved in any way. If the Board has concerns, your spokesperson will have to address them at a hearing.

If no objections are received, the hearing can be canceled. But, if there is 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 enough employees support it, the Board will call a secret ballot vote of all employees. If a majority of employees vote for decertification, your Application will be successful and the Union will be decertified.



APPLICATION FOR REVOCATION OF BARGAINING RIGHTS (DECERTIFICATION)

- Employees who wish to have the bargaining rights of their union revoked should select a person to act as their spokesperson. This person will be referred to as the “applicant.”
- Please read Rules of Procedure No. 2—Applications for revocation (Rules of Procedure No. 2) before completing this form. **In accordance with these rules, an application is considered filed with the Board on the date the completed Application for Revocation form, the original separate and confidential employee statements relating to the application (see Supporting Documents below) and the completed Certificate of Accuracy are received.** You can consult Rules of Procedure No. 2 on the Board’s website at www.cirb-ccri.gc.ca.
- Please consult Information Circular No. 10—Applications for Revocation (also available on the Board’s website) for more detailed information on the requirements related to an application for revocation of bargaining rights.

Applicant Information

NAME OF APPLICANT: _____

ADDRESS: _____

CITY/TOWN: _____ PROVINCE: _____ POSTAL CODE: _____

EMAIL ADDRESS: _____

TELEPHONE NUMBER: (_____) _____ FAX: (_____) _____

NAME OF COUNSEL AND LAW FIRM, if applicable: _____

ADDRESS: _____

CITY/TOWN: _____ PROVINCE: _____ POSTAL CODE: _____

EMAIL ADDRESS: _____

TELEPHONE NUMBER: (_____) _____ FAX: (_____) _____

Canada Labour Code

Please check the appropriate box to indicate under which section of the *Canada Labour Code (Part I-Industrial Relations)* this application is being made:

- Section 38(1)–Application to decertify union
- Section 38(3)–Application for order that union is not entitled to represent bargaining unit employees (voluntarily recognized union)
- Section 40(1)–Application to decertify union because certification was obtained by fraud
- Section 41(1)–Application to decertify a council of trade unions

Trade Union Information

FULL NAME OF UNION: _____

LOCAL NUMBER: _____

ADDRESS: _____

CITY/TOWN: _____ PROVINCE: _____ POSTAL CODE: _____

EMAIL ADDRESS: _____

TELEPHONE NUMBER: (_____) _____ FAX: (_____) _____

NAME OF UNION REPRESENTATIVE: _____

TITLE OF UNION REPRESENTATIVE: _____

Apart from the union identified above, do you know of any other unions that have bargaining rights at your workplace? If yes, please list them (attach additional pages if necessary).

Yes _____

No

Employer Information

LEGAL NAME OF THE EMPLOYER: _____

ADDRESS: _____

CITY/TOWN: _____ PROVINCE: _____ POSTAL CODE: _____

EMAIL ADDRESS: _____

TELEPHONE NUMBER: (____) _____ FAX: (____) _____

NAME OF EMPLOYER REPRESENTATIVE: _____

TITLE OF EMPLOYER REPRESENTATIVE: _____

What is the general nature of your employer's business?

What is the address of the employer's workplaces that are affected by this application (if different from above)?

ADDRESS: _____

CITY/TOWN: _____ PROVINCE: _____ POSTAL CODE: _____

TELEPHONE NUMBER: (____) _____ FAX: (____) _____

Facts

How many employees are in the bargaining unit you want to decertify: _____

Is your bargaining unit certified? Yes No

If yes, on what date was your bargaining unit certified? _____

If not certified, is there a collective agreement in force? Yes No

If there is a collective agreement, what is its commencement date? _____

If there is a collective agreement, what is its termination date? _____

Please provide a description of the bargaining unit(s) that will be affected by this application:

Information Related to the Collective Agreement

Give the terms (including commencement, renewal and termination dates) of any existing or recently expired collective agreement that covers or has covered part or all of the employees affected by this application. Please provide a copy of the relevant sections of the collective agreement if available:

Supporting Documents

Submit the following:

- The completed Application for Revocation form**
- Evidence of Employees' Wishes:**
 - ✓ **Original separate and confidential employee statements** signed by **each** employee you claim to represent stating that they no longer wish to be represented by the bargaining agent and authorizing you to act on their behalf. Please note that petitions (list of signatures on one sheet of paper) are not accepted as evidence of employee wishes.

Pursuant to section 35 of the *Canada Industrial Relations Board Regulations, 2012*, all documents received in this regard are handled and retained by the Board in confidence.

- The completed Certificate of Accuracy**

Note that the application is considered filed with the Board on the date **the completed Application for Revocation form, the original separate and confidential employee statements relating to the application and the completed Certificate of Accuracy** are received. It is important to note that the failure to submit the required documentation with the application at the time of filing may result in the summary dismissal of the application by the Board.

Description of Order or Decision Sought

The order or decision you are seeking is:

- an order revoking the certification of the trade union as bargaining agent
- or
- a declaration that the voluntarily recognized bargaining agent is not entitled to represent the employees of the bargaining unit
- or
- an order revoking the certification of the trade union as bargaining agent due to evidence of fraud

Applicant Signature

Date

The personal information provided on this form is collected solely for the purpose of administering the *Canada Labour Code* and may be accessed by contacting the Board. The information may appear in the Board's written reasons for decision which may be posted in full on the Board's website.



CERTIFICATE OF ACCURACY (REVOCATION)

(This Certificate of Accuracy is to be completed by the applicant and filed at the same time as the Application for Revocation.)

NAME OF APPLICANT: _____

I, _____
(Please print name of applicant)

hereby report and certify to the Canada Industrial Relations Board (the Board) as follows:

1. I understand that any misrepresentations or irregularities in evidence provided to the Board could result in the rejection of all or part of the evidence submitted and the dismissal of the application.
2. I am an employee of the employer in the bargaining unit covered by this application.
3. I represent a more than 50% of the employees in the bargaining unit.
4. To my knowledge, all signatories in support of this application are expressing their true wishes.
5. I understand that the industrial relations officer appointed by the Board has the authority to investigate and verify all documents and statements made by parties to this application.

Dated this _____ day of _____ 20 _____ .

(Signature of witness)

(Signature of applicant)

Individual Decertification Form

Read Carefully

By signing this, I am saying that: I do not support, I do not want to become a Member or do not want to remain a Member of and I do not want to be represented by:

(Print the full name of the union, including the Local number, if applicable)

As it relates to the following employer:

(Print the full name of your employer)

Further, I authorize

(Print the full name of the Applicant)

to act on my behalf in respect of an application for the revocation of bargaining rights stated above.

Full Name (PRINT the name of the person signing this form – Do Not Write)

Date:

Your signature

Witness signature

----- cut here -----

Individual Decertification Form

Read Carefully

By signing this, I am saying that: I do not support, I do not want to become a Member or do not want to remain a Member of and I do not want to be represented by:

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Further, I authorize

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to act on my behalf in respect of an application for the revocation of bargaining rights stated above.

Full Name (PRINT the name of the person signing this form – Do Not Write)

Date:

Your signature

Witness signature