

HOW TO NEW BRUNSWICK | 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. Those are:

- In the last 2 months of a Collective Agreement.
- If the collective agreement is for a term of at least 36 months, in the last 2 months of each year of the collective agreement after the third year (the 47th and 48th months, 59th and 60th months, etc.).
- If the collective agreement says that it will continue unless the union or company gives notice to end it or renegotiate it, in the last 2 months of each year it is continued.
- Where a trade union has not been able to make a collective agreement with an employer (or employers' organization) within 6 months after certification (in the Construction industry).
- Where an employer has voluntarily recognized a bargaining agent, during the 10th to 12th month time period of the 1st collective agreement.

These are somewhat complicated so don't feel bad if you don't understand them all. If you have any questions you can call our toll free line, or call an Employee Advisor from our Contacts area.

GET THE FORMS

You must make your application in writing and need to use a specific application Form 50-1796.

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.

The Forms are a part of our [Decertification Download](#) along with our instructions. Some of the Forms without full instructions are only available by mail or in person from the New Brunswick Labour and Employment Board and are not available at any New Brunswick government or NBLEB 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 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.

BUILD SUPPORT

You should not use threats or promises or pressure to get fellow employees to sign whatever evidence of support you chose, Individual Decertification Form or a 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% of your group sign a Card and you file your Application, there will hopefully be a secret ballot vote, supervised by the Labour Relations Board, where every employee in the group can vote in private. Not everyone who signs a Card will necessarily vote for decertification, but some who are reluctant to sign a Card may vote for decertification in the secret ballot vote.

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 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 form, you will need to collect or prepare the following information:

- The names, addresses, and phone numbers of: the applicant (the applicant must have signed the petition), your contact person, the union and your employer.
- The date the union was certified.
- A brief description about what kind of business your company is involved in.
- Approximate number of employees who work for your company.

- Approximate number of employees who work in your bargaining unit.
- The date of the collective agreement was signed.
- A copy of the collective agreement especially the paragraphs about its renewal and its term.

DELIVER THE FORMS

You can send your decertification documents (your application and petition) by hand-delivery or registered mail. With registered mail the documents are deemed to be filed when they are mailed.

Rule 68(1) deems filing to be made (a) when received by the Board or (b) where it is mailed by registered mail addressed to the Board ..., at the time it is mailed..

The NBLEB requires that any application for termination of bargaining rights (whether it be for a construction or non-construction matter) must be filed in quadruplicate - 4 copies.

New Brunswick Labour and Employment Board
City Centre 435 King Street Fredericton, New Brunswick E3B 1E5

CONCLUSION

Once the NBLEB gets your application, it'll contact the union and your company to inform them about your application. The union and the company will send a reply to the NBLEB.

Next, the NBLEB will review your application. The NBLEB almost always looks at the "voluntariness" of applications. It'll look to see if your company was involved in any way. If the NBLEB has concerns, your spokesperson will have to address them at a hearing.

If the NBLEB agrees your application was voluntary, it was made at the right time and at least 40% of employees support it, the NBLEB will call a vote of all employees. If a majority of employees vote for decertification, your application will be successful and the union will be decertified.

PROVINCE OF NEW BRUNSWICK

FILE NO. _____



Industrial Relations Act
(R.S.N.B., c. I-4)

APPLICATION FOR A DECLARATION TERMINATING
BARGAINING RIGHTS, CONSTRUCTION INDUSTRY
BEFORE THE LABOUR AND EMPLOYMENT BOARD
CONSTRUCTION DIVISION

Between:

Applicant,

-and-

Respondent.

The applicant applies to the Labour and Employment Board pursuant to section _____ of the Act for a declaration

*that the respondent no longer represents the employees in the bargaining unit for which it is the bargaining agent.

OR

*that the respondent was not, at the time an agreement was entered into, entitled to represent the employees in the bargaining unit.

The applicant states:

- 1. (a) Name of applicant:
- (b) Address of applicant:
- (c) Address for service:
- 2. (a) Name of respondent:
- (b) Address of respondent:
- (c) Address for service:

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*Strike out if not applicable

- *3. (Where the applicant is not the employer)
- (a) Name of employer of employees affected by the application:

 - (b) Address of employer:

 - * (c) Name of employers' organization affected by the application if the employer is a member thereof:

 - * (d) Address of employers' organization:

 - * (e) Address for service:
- *4. (Where the applicant is the employer and is a member of an employers' organization affected by the application)
- (a) Name of organization:

 - (b) Address for service:
5. Detailed description and geographic location of the unit of employees for which the respondent is the bargaining agent, including (as applicable) the municipality or other geographic area affected:
6. Approximate number of employees in the unit described in paragraph 5:
- *7. (Where the application is made under subsection 42(1) of the Act by an applicant within the subsection) The applicant submits with the application:
- (a) the document or documents by which employees in the bargaining unit have voluntarily signified that they support the application or have voluntarily signified in writing that they no longer wish to be represented by the respondent; and
 - (b) the following statements of representations in support of the application:

*8. (Where the application is made under subsection 42(2) of the Act by an applicant within the subsection)

The applicant submits with the application:

- (a) the document or documents by which the employees in the bargaining unit have voluntarily signified that they support the application or have voluntarily signified in writing that they no longer wish to be represented by the respondent; and
- (b) the following statement of representations in support of the application:

*9. (Where the application is made under subsection 23(2) of the Act by an applicant within the subsection)

The applicant submits with the application:

- (a) the document or documents by which employees in the bargaining unit have voluntarily signified that they support the application or have voluntarily signified in writing that they no longer wish to be represented by the respondent; and
- (b) the following statement of representations in support of the application:

*10. (Where the application is made under subsection 23(1) or (2) of the Act by an applicant within subsection 23(6))

The applicant submits with the application:

- (a) evidence that a substantial question exists as to whether the *trade union *council of trade unions is supported by or has the voluntary support of the majority of the employees in the unit; and
- (b) the following statement of representations in support of the application

*11. (Where the application is made under subsection 23(1) or (2) of the Act by an applicant within subsection 23(7))

The applicant submits with the application:

- (a) the document or documents by which employees in the bargaining unit have voluntarily signified that they support the application or have voluntarily signified in writing that they no longer wish to be represented by the respondent; and
- (b) the following statement of representations in support of the application:

*12. (Where consent to the application is requested under subsection 23(8) of the Act)
The applicant requests consent to early termination and submits with the application the following statement of representations in support of early termination:

*13. (Where the application is made under section 24, 25, 26 or 29 of the Act)
The applicant submits with the application the following statement of representations in support of the application made under section _____ :

*14. With respect to the application of section 30 of the Act to the application, the applicant submits the following statement of particulars known to the applicant with respect to each subsection thereof:

*15. Other relevant statements:

*16. Additional pages annexed or attached:

(a) Number of pages:

(b) Paragraph numbers of this form completed on the additional pages:

*17. In addition to the normal service of documents relating to this application, the applicant requests that copies be forwarded as follows (name and address):

Dated at _____, this _____ day of _____, 20 ____ .

(Signature and office)

(Signature and office)

N.B. This form must be completed and signed in accordance with provisions made in the Act and under the rules of the Board.

USE THIS FORM IN THE CONSTRUCTION INDUSTRY ONLY

*Strike out if not applicable