

HOW TO NOVA SCOTIA | 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:

- 12 months after certification, if no Collective Agreement has been negotiated;
- within the last 3 months of a collective agreement; and
- if the collective agreement is for a term of at least 36 months, also during the last 3 months of each year of the collective agreement after the second year (the 34th, 35th and 36th months; the 46th, 47th and 48th months; the 58th, 59th and 60th months, etc.).

GET THE FORMS

You must make your application in writing and need to use a specific application form (Form 20).

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.

You can get copies of these forms along with a copy of these instructions in the [Downloads](#) section. Alternatively, [click here to view the form](#) for Nova Scotia.

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. 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.

The Nova Scotia Labour Board says that you must demonstrated that a "significant number of members of the trade union" allege that the union was not adequately fulfilling its responsibilities; or the union "no longer represents a majority of employees in the bargaining unit". The Labour Board has not clarified exactly what in

means by a "significant number" but it is less than 50%+1

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 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. We suggest the best way is by courier or hand-delivery.

But, whatever way you send them, make sure you send 3 copies.

CONCLUSION

Once the Nova Scotia Labour Relations Board gets your application, it'll contact the union and your company to inform them about your application. The Labour Board will provide all of the names you gathered to the union so they can make sure all of them are actually employees. The union and the company will send a reply to the NSLRB.

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

If the NSLRB agrees your application was voluntary, it was made at the right time and enough employees support it, the NSLRB 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.

The Trade Union Act

APPLICATION FOR DECLARATION TERMINATING ACCREDITATION AS BARGAINING AGENT, CONSTRUCTION INDUSTRY BEFORE THE LABOUR RELATIONS BOARD (NOVA SCOTIA)

Between:

Complainant,

-and-

Respondent.

The applicant applies to the Labour Relations Board (Nova Scotia) under section _____ of the Act for a declaration that the respondent no longer represents the employers in the unit of employers for which it is the bargaining agent.

The applicant states:

1. (a) address of applicant: _____

- (b) address of respondent: _____

2. Detailed description of the unit of unionized employers for which the respondent is the bargaining agent: _____

3. Approximate number of unionized employers in the unit described in paragraph 2: _____

4. Approximate number of employees employed by the employers in the unit described in paragraph 2: _____

5. (a) (Where the application is made under Section _____ of the Act) Date of the respondent's accreditation certificate: _____

- (b) (Where the application is made under Section _____ of the Act) Expiry date of the collective agreement between respondent and the trade union or council of trade unions: _____

6. The applicant submits with the application the document or documents by which employers in the unit of employers have voluntarily signified in writing that they no longer wish to be represented by the respondent.
7. Approximate number of employees employed by the employers who have voluntarily signified in writing that they no longer wish to be represented by the respondent: _____

8. Other relevant statements (attach additional pages if necessary): _____

I/We _____ declare that the statements made and information given herein 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 said

before me at _____

in the County of _____

this _____ day of _____, A.D. 19 _____

(Signature)

A Commissioner of the Supreme Court of Nova Scotia

(To be declared before a Commissioner for taking affidavits or any other person authorized by law to administer an oath.)

Note: Any employee, or group of employees, who has filed an Application for Revocation of Certification may attend at the hearing in person or by representative. Any employee or representative who appears at the hearing will be required to testify, or produce a witness or witnesses who will be able to testify, from his or their personal knowledge and observation as to (a) the circumstances concerning the origination of the material filed, and (b) the manner in which each of the signatures was obtained.