

# HOW TO PRINCE EDWARD ISLAND | NON-CONSTRUCTION Decertify A Union - Full Decertification

## TERMS OF USE

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

They are not intended to offer legal or consulting advice. Accessing information or documents from the LabourWatch web site is not intended to create a solicitor-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 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

The Canadian LabourWatch Association encourages the use of our content including copying, emailing and faxing as needed by users. There are no restrictions on the use of our FAQ's, any Downloads related to labour law proceedings, our Newsletters, etc. Any documents or materials housed on this web site that are the product of organizations other than LabourWatch may be viewed but further copying and distribution should only be done in accordance with copyright law.

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 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 Prince Edward Island Labour Relations Board agrees, you cannot apply during a legal strike or lockout. Otherwise, the open time periods are:

- 10 months after certification, if no Collective Agreement has been negotiated;
- 10 months after the collective agreement expires, unless it is renewed;
- within the last 2 months of a collective agreement;
- if the collective agreement is for a term of at least 24 months, also during the last 2 months of each year of the collective agreement after the first year (the 23rd and 24th months, the 35th and 36th months, the 47th and 48th months, etc.); and
- if the collective agreement says it continues to apply after its expiry date unless the union or the company gives notice to end it or renegotiate it, then also during the last 2 months of each year it is continued.

## GET THE FORMS

You must make your application in writing and need to use a specific application form (Form 7).

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 Prince Edward Island.

## 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 50%+1 of your group sign support 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 in support will necessarily vote for decertification, but some who are reluctant to sign may vote for decertification in the secret ballot vote.

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.
- The start date and expiry date of your collective agreement.
- The date the union was certified and a copy of the certification order (check with the PEILRB).
- A description of your "bargaining unit" (see a copy of your collective agreement).
- A brief description about what kind of business your company is involved in.

Once you complete the forms, you need to have a Commissioner of Oaths witness your signature and sign them. 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. But, the best way is by fax.

## CONCLUSION

Once the PEILRB 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 PEILRB.

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

If the PEILRB agrees your application was voluntary, it was made at the right time and has enough employee support, the PEILRB 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. On the other hand, if the PEILRB is satisfied a majority of the employees support your application, it may decertify the union without a vote.



FORM 7

LABOUR RELATIONS BOARD (PRINCE EDWARD ISLAND)

APPLICATION FOR REVOCATION OF CERTIFICATION ORDER

BETWEEN:

APPLICANT

- and -

RESPONDENT

1. The Applicant applies for revocation of certification order \_\_\_\_\_ issued on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_\_.
2. The bargaining unit in the said certification order is described as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Is there a collective agreement affecting employees in the bargaining unit? If so, state commencement date and expiry date. \_\_\_\_\_  
\_\_\_\_\_
4. Does the respondent union represent a majority of the employees in the unit for which it was certified? \_\_\_\_\_  
State particulars \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Is this application accompanied by an application for certification of another trade union in place of the respondent union? If so, state name of such union \_\_\_\_\_  
\_\_\_\_\_

I/We \_\_\_\_\_

declare that the statements made and information given herein are true in substance and in fact, and that I/We 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 \_\_\_\_\_ and)  
Province of \_\_\_\_\_ )  
this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

A COMMISSIONER