

HOW TO QUEBEC | NON-CONSTRUCTION Decertify A Union - Full Decertification

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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

OVERVIEW

Decertification basically means getting rid of a union, in Quebec it is also called "Revocation". It happens when enough 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. In brief, the union has to cease to exist or no longer have an absolute majority of the employees of the bargaining unit as actual "Members" of the union.

Using our step-by-step instructions, you may be able to decertify your union if there is enough support from your fellow employees. If you need help, go to our "Contacts" pages and get in touch with someone listed there. By the way, others may call decertification "cancellation of certification", "rescission of bargaining rights" or "termination of bargaining rights."

TIMING YOUR DECERTIFICATION

You can only apply to decertify the union during the periods described in the Quebec Labour Code. You cannot apply during a legal strike or lockout or while a dispute is being considered by an Arbitrator.

You are allowed to apply for decertification of a union during the following periods:

No Collective Agreement

- 12 months after the certification date if there is no strike, no lock-out and the dispute has not been submitted to arbitration.
- Nine (9) months after the Collective Agreement has expired, if no new Collective Agreement has been ratified and there is no strike, no lock-out and the dispute has not been submitted to arbitration.

Collective Agreement of 3 years (exactly) or less

- Collective Agreement term (length) is less than or exactly three (3) years (36 months), the open period is between the 90th and 60th day prior to the expiry of the Collective Agreement - that is, only during the 3rd month prior to the expiry of the Collective Agreement.

Collective Agreement of more than 3 years but less than 6 years

- Collective Agreement term (length) is more than three (3) years and less than six (6) years, you may apply between the 180th and the 150th day before the expiration of the Collective Agreement, that is, only during the 6th month before the expiration of the Collective Agreement.

A Collective agreement of more than 6 years

- Collective agreement of six years or more, the open period is also for the 180th day to the 150th day prior to 6th anniversary of the signing of the Collective Agreement and every other anniversary thereafter, except where such period would end within 12 months or less of the 180th day prior to the date of expiration of the Collective Agreement.

Public or Parapublic unions

If you are in the Public or "Parapublic" sector, you may file an application for decertification between the 270th and 240th days preceding the expiry of the Collective Agreement.

Please note that "Collective Agreement" is meant to include awards rendered by an arbitrator.

GET THE FORMS

You must make your application in writing using a Form supplied by the Quebec Labour Board - the Commission des relations du travail (CRT). There are copies of that Form at the end of this package. You must complete the Form and supply evidence of support for your application by having employees sign a Petition or Individual Decertification Forms. Because you need to prove that an absolute majority - at least 50% +1 of your coworkers don't support the union, you must collect their names and signatures. You may use one of three different types of Forms we provide in this package - this is called "support evidence".

In Quebec it is also very important to say that you are resigning your

Membership in the union in addition to saying that you don't want to be unionized.

COLLECTING EVIDENCE OF EMPLOYEE SUPPORT

Using a Petition as evidence means that you can have many names on one page and you don't have to keep track of a lot of individual pieces of paper.

You will need to collect the names and signatures of as many of your coworkers as possible. By the way, you may have to prove the signatures on your Petition were given "freely" and "voluntarily".

When you are filling in the top of the Petition write clearly and legibly. Make sure you have your employer's name and union's name and local number exactly right. Read about how you might be able to pre-fill in the "employee work address" section further down. Once you have this information filled out you can start making copies for people to use. Be sure everyone uses the same Petition with the same wording at the top and, make sure to read about how to complete the employee work address section, below.

Make sure Petition signatures are not gathered when you or the signer are on working hours; however, they can be collected if both you and the person signing are on an unpaid break or before or after work, it just can't be during paid time. If your any of your break times are paid, you cannot collect signatures during those breaks. Make sure everyone who is signing the Petition is given a chance to read it first. Be sure each name is clearly written and each supporter must date their signature when they sign.

Witness Signature

Usually the person collecting support is the one who signs as the witness beside each employee signature.

If your coworkers are concerned about privacy you can either cover the signatures above each new signer, or you can use Individual Decertification Forms instead.

Using the Individual Decertification Forms (IDF) as evidence means you have one form for each person who supports the application. As stated above, if the people you work with are worried about privacy the Individual Decertification Forms might be better than a Petition.

There are two types of Individual Decertification Forms provided: one has three 'cards' per page, the other has only one.

TIP: If you are using the Individual Decertification Forms, print one page and pre-fill in the employer and union name including the union's Local number (if there is one). See the section below about whether or not you should also pre-fill in each employee's work address.

Filling in the "Employee Work Address" section on Petition and

Individual Decertification Forms (IDF).

If you all work at the same address you should prefill in the "employee work address" section on any forms (Petition or IDF) before you photocopy them. That way you know that every form is correct before they are signed.

If you work at different addresses you should not prefill the "employee work address" section. Leave that section for each signer to complete themselves, but make sure everyone from each address fills it in the same. Be sure you know all the different possible work addresses so you can provide that information to each signer.

After this is complete you can start making copies. This way, when you cut the pages into three separate forms, you have made sure everyone has the correct employer, union and work address information. Don't pre-fill any more than these 2 or 3 sections though, read more about avoiding mistakes in the next section.

AVOID MISTAKES

General Mistakes

To succeed, you may have to show that your employer wasn't involved in decertifying the union in ways that are not allowed. 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 decertification.
- No one from management threatened anyone, if they would not support the decertification.
- You have not been led to believe your decertification 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.

Application Support Form Mistakes

- The forms for Decertification must be filled out fully and accurately.

- On the Application for Decertification you must use the full, correct name address and contact information of the union.
- You must have each employee date Individual Decertification Form or Petition at the same time as it is signed.
- You should not collect signatures fellow employees during working hours - while they are being paid. Before or after work is usually the best time.

If you need help, consult our web site or ask for advice from someone who does not work for your employer. You can ask a lawyer for legal advice, if necessary, but the lawyer should be aware that your employer should not pay your legal fees. Hopefully, the instructions on this web site are all that you will require.

BUILD SUPPORT

You should not use threats or promises or unlawful pressure to get fellow employees to sign the support evidence. You should think of one or two good reasons why you believe the union should be decertified. A businesslike and friendly approach works best.

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 50%+1 of the group mentioned in that definition.

You should also remember that it is possible that you may have to prove the signatures on your support evidence were given "freely" and "voluntarily."

As mentioned above, people who support your decertification should not sign support evidence when they are being paid to be at work or on a paid break - they must be on an unpaid break during work or best, before or after work. The reason is that you are supposed to be working. 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 paid time suggesting that the employer wants everyone to know they support the decertification.

PREPARE THE FORMS

APPLICATION FOR DECERTIFICATION.

To properly complete your Application, you will need to collect or prepare the following information:

- The name, address, and phone number of the applicant (who must also sign support evidence).
- The name, address, and phone number of your contact person.
- The name, address, and phone number of the union.
- The name, address, and phone number of your employer.
- You can now use email to submit your application and if you do, you must also list the email address for all of the recipients noted above (your contact person, your employer, and the union).
- The start date and expiry date of your collective agreement, if any.
- The date the union was certified, if known (check with the Commission des relations du travail).
- The approximate number of employees in your bargaining unit.

SUPPORT EVIDENCE

For each individual employee signing support evidence for the decertification the form must:

- Be dated by the person signing, when they sign, and that date must be within 12 months of when you file the Application for Decertification.
- Include the full name of the union (and local if applicable).
- Include the full name of your employer.
- Have the signer's full name - Write legibly and if the person goes by a nick name, use their full, real name
- Have the same statement at the top of any support evidence that we have on ours so if you run out of room on a petition you cannot just add a blank page of signatures, every page must have the correct wording at the top.

- When using a Petition we recommend that you number the pages so that if more than one of you are collecting signatures you can keep track and make sure not to lose any.

DELIVER THE FORMS

You will need one original and two copies of all your documents, the decertification and your support evidence.

To the Commission des relations du travail (CRT)

First, you must send the originals of your decertification application and support evidence to the Commission des relations du travail or (CRT).

You can do this by delivering it yourself in person, regular mail, courier or by fax or e-mail to one of their offices.

To the Union:

Second, you will deliver a copy of your decertification application and a copy of all of the support evidence to the union and they must receive this on the day you file with the Labour Board - and not later.

It is best to email it to the union in the evening, say after 6:00 or 7:00 pm but before 11:59 PM on the last day of the period. The next best option is to deliver during business hours yourself or by courier.

The last choice is to fax it, because some unions unplug or turn off their fax machine when they are expecting a decertification. Fax is a very risky option if you wait until the end of or the evening of the last day to apply.

Third, be sure that you keep a copy of anything you send, and always send the Labour Board the originals.

Make sure to deliver it at the most recent address, fax number or, e-mail address and keep copy of anything you send and evidence of the date of delivery.

Do not use your employer's fax machine or employer's equipment. Go to a public library or a store that has a public fax service and they will be sure all pages go correctly and get you the confirmation page. If you have to pay to fax, then keep your receipt as this will be additional proof if the union tries to complain about how you filed your decertification.

Siège social - Québec

900 René-Lévesque Blvd. East, 5th Floor
Québec (Québec) G1R 6C9
Fax: (418) 643-8946
Toll free: 1-866-864-3646

Montreal

35, rue de Port-Royal Est
Montréal (Québec), H3L 3T1
Fax: (514) 873-3112
Toll free: 1-866-864-3646

WHAT CAN THE UNION DO?

In Quebec, unions can and are allowed by the law to file another certification after they learn about your decertification or try to regain their majority by asking employees to sign new cards before the end of the decertification. What can happen is that you might be decertified one day based on the Individual Decertification Forms or a Petition. Then the Labour Commissioner can certify or unionize you again based on the new union application right away so it basically all happens the same day. Employees tell stories of very aggressive union tactics to get this new application in, but in many cases employees file another decertification application and then ask the Labour Commissioner for a vote instead, to end the process of competing applications.

If you want to be decertified do not give up if the union does not respect your first application - just collect support again and re-file. This second decertification application might be officially rejected, it might help you get a vote instead of a decertification on cards followed by a re-certification on cards. Make sure, if possible, to file your decertification application on the last day of the decertification period.

CONCLUSION

Once the Commission des relations du travail (CRT) receives your application to decertify the union, it will assign a "Labour Agent" to investigate. The Agent will issue a report and set a date for a hearing, if needed.

In Quebec, Labour Commissioners can order a workplace decertified on support evidence alone - without a vote. They can also order a vote.

The Agent will likely have meetings at your workplace to review employee lists with management and possibly interview your coworkers about their willingness to sign the support evidence and maybe, where they signed it and how they signed it. After the investigation, the Agent will prepare a report. You, the union and your employer will be given 10 days to object to any findings in the report.

If there are no objections or the union agrees with your application, no hearing before a Labour Commissioner will be necessary.

However, if a hearing is necessary, the Commissioner may investigate your application. Commissioners often look into the "voluntariness" of your decertification. Basically, they'll want to make sure that your employer was not involved in illegal ways. If the Commissioner has any concerns about the way support evidence signatures were gathered or about employer involvement, your spokesperson may have to address these issues at the hearing. You may also have to let the Commissioner know who may be your spokesperson, how many witnesses you'll call and the approximate amount of time you will need for their testimony.

So, in order to succeed, you may have to demonstrate that your employer was not involved in illegal ways.

Individual Decertification Form

This document indicates that I resign my membership in, and do not wish to be represented by:

Full name of union (and local if applicable)

as it relates to the following employer:

Full name of employer

Address where you work

Personal Details

Full Name:

Print your full name

Signature: _____ Date: _____

Witness signature: _____ Date: _____

Individual Decertification Form

Read Carefully

This document indicates that I resign my membership in, and do not wish to be represented by:

(Write the full name of the union, including the Local number, if applicable)
As it relates to the following employer:

(Write the full name of your employer)

(Write the address where you work)

Full name (PRINT - do not write)

Date:

Your signature

Witness signature

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

Individual Decertification Form

Read Carefully

This document indicates that I resign my membership in, and do not wish to be represented by:

(Write the full name of the union, including the Local number, if applicable)
As it relates to the following employer:

(Write the full name of your employer)

(Write the address where you work)

Full name (PRINT - do not write)

Date:

Your signature

Witness signature

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

Individual Decertification Form

Read Carefully

This document indicates that I resign my membership in, and do not wish to be represented by:

(Write the full name of the union, including the Local number, if applicable)
As it relates to the following employer:

(Write the full name of your employer)

(Write the address where you work)

Full name (PRINT - do not write)

Date:

Your signature

Witness signature

**APPLICATION FOR REVOCATION OF CERTIFICATION
(ARTICLE 41 FROM THE LABOUR CODE)**

SECTION I: IDENTIFICATION OF PARTIES	
PETITIONER	CERTIFIED ASSOCIATION
Name:	Name:
Address:	Address:
City:	City:
Postal Code:	Postal Code:
Phone Number:	Phone Number:
Fax Number*:	Fax Number*:
Email Address*:	Email Address*:
EMPLOYER	OTHER INFORMATION
Name:	Person to contact for the petitioner:
Address:	If more than one petitioner, attach the list
City:	
Postal Code:	
Phone Number:	
Fax Number*:	
Email Address*:	

* If known

SECTION II: REASON FOR APPLICATION
<input type="checkbox"/> 1. The association has ceased to exist
<input type="checkbox"/> 2. The association no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified

SECTION III: SIGNATURE AND DATE
Signature: _____ Date: _____
<p>If you are an employee, you must forward a copy of your application to the certified association and the employer. If you are the employer, you must forward a copy of your application to the certified association.</p>

SEND TO ONE OF THE OFFICES OF THE COMMISSION		
Commission des relations du travail 900 René-Lévesque Blvd. East, 5 th Floor Québec (Québec) G1R 6C9 Phone: (418) 643-3208 Toll free: 1-866-864-3646 Fax: (418) 643-8946	<i>Proof of receipt</i>	Commission des relations du travail 35 Port-Royal Street East, 2 nd Floor Montréal (Québec) H3L 3T1 Phone : (514) 864-3646 Toll free: 1-866-864-3646 Fax: (514) 873-3112

22. Certification may be applied for:

- a) at any time, in the case of a group of employees not represented by a certified association and not already contemplated, in whole or in part, in an application for certification;
- b) *(paragraph repealed)*;
 - b.1) subject to subparagraph b.2, 12 months after the date of a certification, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out by this Code;
 - b.2) 12 months after the decision of the Commission on the description of the bargaining unit rendered under paragraph d.1 of section 28, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out permitted by this Code;
- c) nine months after the date of expiration of a collective agreement or of an arbitration

award in lieu thereof, in the case of a group of employees for whom a collective agreement has not been made and for whom a dispute has not been submitted for arbitration or is not the object of a strike or lock-out permitted by this Code;

d) from the ninetieth to the sixtieth day prior to the date of expiration of an arbitration award in lieu of a collective agreement of the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is three years or less;

e) from the one hundred and eightieth to the one hundred and fiftieth day prior to the date of expiration of a collective agreement or of its renewal where the term of the collective agreement is more than three years and, where such term so allow, during the period extending from the one hundred and eightieth to the one hundred and fiftieth day prior to the sixth anniversary of the signing of the collective agreement or of its renewal and every other anniversary thereafter, except where such a period would end within 12 months or less of the one hundred and eightieth day prior to the date of expiration of the collective agreement or of its renewal.

41. The Commission may, at the time fixed in paragraph b.1, b.2, c, d or e of section 22 or, if such is the case, in section 111.3, cancel the certification of an association that:

- a) has ceased to exist, or
- b) no longer comprises the absolute majority of the employees of the bargaining unit for which it was certified.

Notwithstanding the fourth paragraph of section 32, an employer may, within the delay provided for in the preceding paragraph,

request the Commission to examine whether the association still exists or whether it still represents the absolute majority of the employees belonging to the bargaining unit for which it was certified.

A labour relations officer responsible for examining the representative nature of the association shall send a copy of his report to the petitioner, the association and the employer. The latter persons and association may contest the report by stating their reasons in writing to the Commission within 10 days after receiving the report.

111.3 Notwithstanding paragraph d of section 22, certification may be applied for in respect of a group of employees of the public and parapublic sectors between two hundred and seventy days and two

hundred and forty days before the date of expiration of a collective agreement or the document in lieu thereof.

INSTRUCTIONS

How to complete the form?

You must complete all sections of the form and reply to all questions. You must also sign and date it.

What to do once the form is completed?

You must forward your application to the Commission, either by mail, by fax or by courier. You can also file it yourself at one of the offices of the Commission in Quebec City or in Montreal (attach the other pertinent documents to the file).

If you are an employee, you must forward a copy of your application to the certified association and to the employer.

If you are the employer, you must forward a copy of your application to the certified association.

Deadline for filing an Application for Revocation of Certification

Your application for revocation of certification must be received by the Commission within the time limits provided for in article 22 of the *Labour Code* for the private sector, or those provided in article 111.3 for the public and parapublic sectors.