

HOW TO QUÉBEC | NON-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

OVERVIEW

Decertification basically means getting rid of a union, in Quebec it is 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.

Using our step-by-step instructions, you should 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 "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:

- 12 months after the certification date if there is no strike, 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, lock-out and the dispute has not been submitted to arbitration.
- Collective Agreement term (length) is less than or exactly three years (36 months), the open period is between the 90th and 60th day before the expiry of the collective agreement - that is, only during the 3rd month before the expiry of the Collective Agreement.
- Collective Agreement term (length) is more than 3 years and less than 7 years, you may apply between the 180th and the 150th day before the expiration of the Collective Agreement, that is, only during the sixth month before the expiration of the Collective Agreement.
- 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 Revocation Letters. 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 either form, and both are included in this package – this is called Support Evidence.

In addition to saying that you don't want to be unionized, in Quebec it is also very important to say that you are resigning your Membership in the union.

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".

Make sure Petition signatures are not be gathered when you or the signer are on working hours; however, they can be collected if both you and the person signing are on break or before or after work, it just can't be during paid time. Also, 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.

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

Using the Individual Revocations Forms 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.

TIP: If you are using the Individual Revocation Forms, print one page (3 forms per page) and pre-fill in the employer and union name, (don't forget the union local number if there is one) before making copies. Then, when you cut the pages into three separate forms, you have made sure everyone has the correct employer and union information. Don't pre-fill any more than the name of the union and your

employer 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 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 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 Revocation you must use the full, correct name address and contact information of the union.
- You must have each employee date Individual Revocation Form or Petition at the same time as it is signed.
- You should not approach 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 application should not sign support evidence when they are being paid to be at work - 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 work time suggesting that the employer wants everyone to know they support the decertification campaign.

PREPARE THE FORMS

APPLICATION FOR REVOCATION.

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.
- 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 Application, 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 Revocation.
- 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 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.

When using Individual Revocation Letters be sure one person has them all, as soon as possible.

Take any support evidence home, Petitions or Individual Revocation Forms home every day and leave them locked in your car when you are at work. **Do not store them at work, not even in a locked locker.** If someone from the union sees them there the Labour Board may conclude that your employer knows about the decertification and is supporting it.

DELIVER THE FORMS

You will need one original and two copies of all your documents, the Application 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 Labour Board (the CRT).

You can do this by delivering it yourself in person, regular mail, courier or by fax to one of their offices. Do not email your decertification Application because as far as we know they have not yet decided to accept decertifications by email.

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. If you think your union will dispute your decertification you should choose a delivery method that will give you a proof of receipt, and in very severe cases it might be worth sending it to them by registered mail.

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

Do not use your employer's fax machine. 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 Application.

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: (418) 643-8946
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 Application after they learn about your decertification Application. What can happen is that you might be decertified one day based on the Individual Revocation Letters or a Petition. Then the Labour Commissioner can certify or unionize you again based on the new union Application. 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 refile. 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.

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 a 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.

**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

Confidential Statement: Make copies of this page. Each employee seeking to decertify the union must separately and confidentially sign the statement below, no more than 12 months before the date you file your application with the Commission des relations du travail.

cut here

Individual Revocation Form

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, if applicable)

As it relates to the following Employer:

(Write the full name of your Employer)

Signature: _____

Date: _____

cut here

Individual Revocation Form

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, if applicable)

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(Write the full name of your Employer)

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