

HOW TO SASKATCHEWAN | 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. It happens when a majority of employees do not want to be unionized. If you can prove this you may be able to Decertify the union. But, there are rules you must follow.

Using our step-by-step instructions, you should be able to apply to the Labour Board. 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". In Saskatchewan it may also be referred to as "rescission".

TIMING YOUR DECERTIFICATION

You can only apply to Decertify the union during an Open Period. Also, unless the Labour Board agrees, you cannot apply during a legal strike or lockout.

The Open Periods stay open once they begin. They are:

- **Two years after the first Certification Order was issued by the Labour Board.** The Open Period for an employee begins 2 years after certification. The Open Period stays open until an Application is made and is unsuccessful and then a new Application to Cancel a Certification Order cannot be made for 12 months.
- **One year after an unsuccessful Application to Cancel a Certification Order.** If an Application is made and is unsuccessful, the next Open Period starts 1 year after..

GET THE FORMS

In Saskatchewan there are 3 Forms to be completed. The Applicant, (the employee who is in the Bargaining Unit and is going to officially file the Application with the Board), completes the Form 3 in point 1 below. Everyone who supports the Application has to complete their own Evidence of Employee Support Card in point 2. Finally, while not actually a "Form" (you have to make it yourself) the List of Evidence of Employee Support Cards in point 3 must be completed.

1. **Form 3 - Application to Cancel Certification Order.** Only one of these is needed for the overall Application to Decertify the union. This is a standard Labour Board Form that is also on the LabourWatch website.
2. **Evidence of Employee Support Cards (EESC).** These are used because you need to prove that 45% or more of your co-workers support the Application. To do this, you need to have them sign a Form that includes certain information. The Labour Board does not have a Form for you to use. LabourWatch has made one based on what the Board says (on the Form 3) that it requires as "evidence of employee support". Our Form is included with our Decertification Download. The Board says you must not use a petition because that is not as confidential as a single Card for each employee.
3. **List of Evidence of Employee Support Cards.** You have to make this list of certain information on the Evidence of Employee Support Cards that you and your co-workers filled out (see the example below).

You must determine how many employees there are in the Bargaining Unit that you wish to Decertify. It is a good idea to have as many Evidence of Employee Support Cards as possible, since there can often be a dispute about how many employees are included in the Bargaining Unit, for example, an employee on maternity leave counts, but others on other types of leave may not count. You may not know about new hires.

Next, complete a Form 3 and send it to the Labour Board along with all the Evidence of Employee Support Cards and the List of Evidence of Employee Support Cards.

The list mentioned in point 2 above must be typewritten and the Board does not provide you with a Form to use, so we have a sample Form with instructions attached to this package, but you will have to make the list

yourself by using ours as a guide.

If you have access to a computer that has Microsoft Excel© or any spreadsheet program, that would be the easiest type of program to use. Create the list with four columns: name, address, job (the Board calls it an "occupational classification") and the last column is for the date the Card was signed.

Once your list is finished you should have one line for each Card you collected.

COLLECTING EVIDENCE OF EMPLOYEE SUPPORT

Using Evidence of Employee Support Cards (EESC) as evidence means you have one Form for each person who supports the Application.

TIP:When using the Evidence of Employee Support Card, print one page (3 Cards 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 give the Cards out, you have made sure everyone has the correct employer and union information. Don't pre-fill any more than the union's name (and Local) though. Read more about Avoiding Mistakes below.

AVOID MISTAKES

General Mistakes

To succeed, you may have to show that your employer wasn't illegally involved in getting your Application started or in getting signatures. 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 if you have any expenses.
- 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.

- You should not approach fellow employees on employer premises during working hours - but meal or coffee breaks is okay and of course, before or after work.

NOTE: It is not always illegal to collect Cards on work time or to use employer equipment. This becomes illegal when your employer knows and other employees know that your employer is involved.

Application Support Form Mistakes

- The forms for Decertification must be filled out fully and accurately.
- On the Form 3 you must use the full, correct name address and contact information of the union.
- You must have each employee date Individual Decertification Form at the same time as it is signed. DO NOT date the Form yourself before or after the employee signs.

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 pressure to get fellow employees to sign their Evidence of Employee Support Card. You should think of 2 or more good reasons why you believe the union should be decertified. A businesslike and friendly approach works best. Remember, once more than 45% of your group sign an EESC and you file your Application, there will hopefully be a secret ballot vote. It will be supervised by the Labour Board and where every employee in the group can vote in private. Not everyone who signs will necessarily vote for Decertification, but some who are reluctant to sign may vote for Decertification in the secret ballot vote.

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 45% or more of the group mentioned in

that section.

Sometimes you may have to prove the signatures on your EESC's were given "freely" and "voluntarily" if the union files evidence of illegal employer involvement .

You should assure employees that if they sign a Card, it will be confidential. The Labour Board is required to protect the confidentiality of your Cards and your List of Evidence of Employee Support.

As mentioned above, people who support your Application should not sign an EESC when they are working - they must be on a break during work or do it 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

1. FORM 3 - APPLICATION TO CANCEL CERTIFICATION ORDER.

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

- The name, address, and phone number of the Applicant, the union and your employer.
- Approximate number of employees in your "Bargaining Unit".
- The date of the Certification Order you are Decertifying (rescinding) and the "effective provisions" of the Certification Order. A copy of this is available from the Labour Board, just by telling them the name of your employer and union. You should attach a copy to the Form 3 (Then you can just enter the date and write "See Attached").
- The date of the Collective Agreement (from a copy of your Collective Agreement).

You need to submit one original of the Form 3 (also keep a copy for yourself). You have to swear the Form 3 in front of a Notary Public, Justice of the Peace or Commissioner for Oaths in and for the Province of Saskatchewan.

2. EVIDENCE OF EMPLOYEE SUPPORT CARDS (EESC)

For each individual employee signing to support the Decertification

Application, the Form must:

- Be dated by the person signing it and that date must be within 90 days of when you file the Application to Cancel Certification Order (Form 3 above).
- Include the full name of the union (and local if applicable). You may want to do a master Evidence of Employee Support Card with the proper union name, and Local (if applicable), then photocopy it for everyone who supports you to fill out.
- State that the individual signing the Card wants a secret ballot vote about whether they want the union to represent them any longer and the employee supports the Application, (our standard Form does this).
- The employee must sign the document.

You will be submitting the original of each individual employee's signed Card, so keep a copy of each one for yourself. Also, include one blank "sample" of the Card for the Labour Board.

3. A TYPEWRITTEN LIST OF EVIDENCE OF EMPLOYEE SUPPORT CARDS

As mentioned above, this list should have one line for each of the cards you have to support the Application.

- The list should include their names, job title ("occupational classification"), address, and the date they signed their Card.
- See the attached sample Form so you know how it should look.

DELIVER THE FORMS

Once you have gathered Evidence of Employee Support Cards from 45% or more of your Bargaining Unit, and you have filled out and sworn a Form 3, you must get all the originals to the Labour Board. Don't forget to keep a copy for yourself of everything you file. The Labour Board allows you to drop documents off at any of three locations listed below. You can use regular mail, a courier or you can deliver them by hand. The advantage of going in person is that a Labour Board official might go over the documents you are handing in and help you correct any errors, but they might not so don't count on that. **Don't fax them.**

Regina

Labour Board
1600-1920 Broad Street
Regina, Saskatchewan, S4P 3V2

Saskatoon

Labour Relations & Workplace Safety Office
8th Floor, Room 841, Sturdy Stone Building, 122 3rd Ave N.
Saskatoon, Saskatchewan, S7K 2H6

Prince Albert

Labour Standards Office
800 Central Avenue Prince Albert, Saskatchewan, S6V 6G1

CONCLUSION

Once the Saskatchewan Labour Board gets your Application, they will contact the union and your employer to inform them about the Application. If the union or the employer has any concerns, they can send them to the Board.

Next, the Board will review your Application.

If no objections are received, any hearing can be canceled or never rescheduled. But, if there is a hearing the Board will contact you to find out how many witnesses you plan to call and about how long they will each talk.

If the Board agrees your Application was voluntary, it was made at the right time and 45% or more employee support it the Board will announce a vote of all employees. If a majority of employees (50% + 1), who actually vote, vote for Decertification, your Application will be successful and the union will be decertified.



FORM 3
[Section 6]

APPLICATION TO CANCEL CERTIFICATION ORDER

APPLICATION FOR ORDER UNDER SECTION 6-14, 6-15, 6-16 OR 6-17
OF THE SASKATCHEWAN EMPLOYMENT ACT.

1. _____
(name of applicant)

of: _____
no. street city/town province postal code telephone fax

Email Address: _____

applies to the Labour Relations Board for an order rescinding an order of the Labour Relations Board.

2. The name of the union certified in the existing order is the:
Name: _____

Address: _____
no. street city/town province postal code telephone fax

Email Address: _____

3. The name and address of the employer are as follows:
Name: _____

Address: _____
no. street city/town province postal code telephone fax

Email Address: _____

4. The order here applied to be rescinded was made by the board on _____
(Date of Order)
to the following effect:

(quote the effective provisions of the Order)

5. The effective date of the collective agreement in force between the certified union and the
employer is _____.
(date)

6. The reasons why the applicant submits that the order ought to be rescinded are as follows:
Where necessary, please include additional reasons as an attachment.

I, the undersigned, solemnly declare that the submissions set forth above, are, in so far as they are matters of fact, true to the best of my information, knowledge and belief, and, in so far as they are matters of opinion, are reasonably and honestly believed by me.

AND I 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 before me at _____,
_____, this _____
day of _____, 20 _____

Notary Public, Justice of the Peace or Commissioner for
Oaths for Saskatchewan
My Commission Expires:

(signature)

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If the applicant is an employer or a union, please indicate the name, address and contact information of the individual swearing the document.

Name: _____

Position Held: _____

Address: _____
no. street city/town province postal code

Telephone: _____

Email address: _____

If the applicant is represented by legal counsel, please also indicate the name and address for service of your lawyer.

Lawyer: _____

Address: _____
no. street city/town province postal code

Telephone: _____

Email address: _____

Evidence of Employee Support Card (EESC)

This document indicates that I no longer want to be represented by the following union:

Full name of union (and local if applicable)

As it relates to the following employer:

Full name of employer

Full Name and Position:

Print your full name

Job Title or "Occupational Classification"

Address:

Street

City or Town

Postal Code

Signature: _____

Date Signed: _____

