

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 no longer support the union or don't want the union to represent them. If you can prove this you may be able to decertify the union. But, there are a few rules you need to follow.

Using our step-by-step instructions, you should be able to apply 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."

TIMING YOUR DECERTIFICATION

You can only apply to decertify the union during an open time period. Also, unless the Labour Relations Board agrees, you cannot apply during a legal strike or lockout.

The open time periods are:

- **If a collective agreement has been negotiated**, 30 to 60 days before the anniversary of the "effective date" of the collective agreement. For example, a current collective agreement dated April 15 (of any year) means you can apply between about February 15 (60 days) and March 17 (30 days). The "effective date" means the date that the collective agreement applied to your workplace. So in the example above April 15 is when the employer had to apply the agreement to the workplace.
- **If no collective agreement has been negotiated**, 30 to 60 days before the anniversary of the date of certification. For example, a current certification date of April 15 (of any year) means you can apply between about February 15 (60 days) and March 17 (30 days).

NOTE: On a calendar, count the number of days from the anniversary date (collective agreement date or certification date, as applicable) to avoid errors because of months with different numbers of days.

GET THE FORMS

In Saskatchewan there are three forms to be completed. The Applicant, (the person who is going to officially file the decertification with the Board), completes the Form 6.1 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 6.1 - Application for Rescission.** Only one of these is needed for the overall Application to decertify the union. This is a standard Labour Board form.
2. **Individual Decertification Forms (IDF).** These are used because you need to prove that at least 45% + 1 of your co-workers don't support the union or at least want a secret ballot vote. 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 6.1) that it requires as "evidence of employee support". Our form is included with our Decertification Download. The Board says you should not use a petition because that may not be 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 group, for example, an employee on maternity leave, or sick leave, or layoff usually counts.

The organizer for your Application then completes a Form 6.1 and sends 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 your computer 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 Individual Decertification Forms as evidence means you have one form for each person who supports the application.

TIP:When using the Individual Decertification 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 union's name though, read more about Avoiding Mistakes on the next page.

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 Form 6.1 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.
- 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.

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 Individual Decertification Form. 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 more than 40% of your group sign a, IDF and you file your Application, there will hopefully be a secret ballot vote, supervised by the Labour Relations Board, 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 at least 45%+1 of the group mentioned in that definition.

You should also remember that it is quite likely that you will have to prove the signatures on your IDF's were given "freely" and "voluntarily."

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 List of Evidence of Employee Support and the Cards.

As mentioned above, people who support your application should not sign an IDF 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 6.1 - APPLICATION FOR RESCISSION.

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). A copy of this is available from the Labour Relations Board, just by telling them the name of the organization you work for. You should attach a copy to the Form 6.1 (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 6.1 form, plus two certified true copies. To do this you need to swear a "Statutory Declaration" that they are true copies (also keep a copy for yourself). Since you have to swear the Form 6.1 in front of a Notary Public, Justice of the Peace or Commissioner for Oaths in and for the Province of Saskatchewan you can have them make two certified copies while you are doing that.

2. INDIVIDUAL DECERTIFICATION FORMS (EMPLOYEE SUPPORT EVIDENCE)

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 for Rescission (Form 6.1 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 more than 45% of your bargaining unit, and you have filled out and sworn a Form 6.1, you must get all the originals and two certified copies 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 Offices
1800-1920 Broad Street
Regina, Saskatchewan, S4P 3V2

Saskatoon

Labour Standards Branch
809-122 3rd Avenue West
Saskatoon, Saskatchewan, S7K 2H6

Prince Albert

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

CONCLUSION

Once the Saskatchewan Labour Relations 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. The Board almost always looks at the "voluntariness" of Applications. It will look to see if your employer was involved in any way. If the Board has concerns, the applicant or someone will have to address them at a hearing.

If no objections are received, the hearing can be canceled. 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 more than 45% 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.



Saskatchewan
Labour Relations
Board

FORM 6.1

(RULE 10(3))

APPLICATION FOR RESCISSION

APPLICATION FOR ORDER UNDER CLAUSE 5(K) OF
THE TRADE UNION ACT.

1. _____
(name of applicant)

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

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

2. The name of the trade union certified in the existing Order is the:

Name: _____

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

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

Name: _____

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

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 trade union and the employer is _____.
(date)

6. The reasons why the applicant submits that the said Order ought to be rescinded are as follows:

7. (1) There are approximately _____ employees in the bargaining unit.

(2) Does the applicant claim to represent a majority of these employees? Yes No

(At the same time as you submit this application, also submit your evidence of employee support, together with a sample of the support document and a typewritten list of the names, occupational classifications, addresses and dates shown on the cards. This material will be treated as strictly confidential)

NOTE: Evidence of support should be in the form of individual signed documents for each employee supporting this application.)

I, the undersigned, hereby 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 verily 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_____)
_____))

(signature)

Notary Public, Justice of the Peace or Commissioner for Oaths in and for the Province of Saskatchewan

List of Evidence of Employee Support Cards (Rescission)

Note: The Saskatchewan Labour Relations Board says you must supply the Board with a list of information on the Evidence of Employee Support Cards that you and your co-workers signed. The Board says this list must be typewritten. If your computer has Microsoft Excel that would be the easiest program to use. Create a list, with four columns that looks just like the one below.

You will have to make sure your list includes the following information, exactly as it appears on the Evidence of Employee Support Cards that each person completed. This information must include: name, job ("occupational classification"), address and the date the Card was signed. Each Evidence of Support for Decertification card should appear on a row, so in the end you should have the same number of cards as you have lines on your list.

| Name | Address | Job | Date Card Signed |
|------|---------|-----|------------------|
| | | | |

Evidence of Employee Support Card

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

(Write the full name of the union)

(Union Local if applicable)

As it relates to the following employer:

(Write the full name of your employer)

(Print your name)

(Job Title or "occupational classification")

(Address)

(City or Town)

(Postal)

(Signature)

(Date)