

HOW TO ALBERTA | NON-CONSTRUCTION File An Unfair Labour Practice Complaint

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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

At this time there is no "Employee Advisor or Ombudsman" funded by taxpayers or union dues to help you address concerns about a Union in Alberta. If you have a problem with a Union's actions, that your Employer cannot address with the Alberta Labour Relations Board and the Union, you are expected to take it up with the Union or go to the ALRB on your own, or with a lawyer. Generally, Employees are discouraged from approaching their Employer regarding a Union's actions.

In Alberta, if you provide your Employer with the necessary information, the Employer may file an unfair labour practice complaint based on the inappropriate behaviour. It may also be able to provide you with the name of a lawyer you can contact to assist you with your own application. These situations are unusual so please read [Question #1](#) of our Alberta Unfair Labour Practices FAQs - in fact print and read all nine of the ULP FAQs.

While there are many sections of the Alberta Labour Relations Code about Unfair Labour Practices, most relate to the relationship between Employers and the Union. We will only be addressing those between Employees and the Union. The Union will provide significant help to Employees who want to file a ULP against the Employer and LabourWatch does not attempt to duplicate the excellent information and resources available to Employees from Unions.

GET THE FORMS

The ALRB has a form specifically for Employees to file a ULP. LabourWatch has included that form in this "How To Guide".

Given the difficulty the average Employee may have with any legislation such as the Alberta Labour Relations Code, completing the Form will require that you know which section of the Alberta Labour Relations Code you are saying has been violated. We have included the excerpts from the Code at the end of this document. The ALRB has an excellent section on Unfair Labour Practices on their [website](#).

Our "How To Guide" is only meant to address situations where you believe a

Union has violated the Alberta Labour Relations Code regarding a Union's conduct towards Employees it is trying to unionize or with unionized Employees the Union actually represents.

COMPLETE THE FORMS

The first few sections of the form are easy, requiring primarily names, addresses, phone and fax numbers. If you feel that filing a ULP is too complicated please contact one of the Employee Advisors in your area - see the [Contacts](#) section of our website. The form has limited space so attach extra pages if you need to.

You will be required to state the section of the Alberta Labour Relations Code that you claim has been violated, you will find a detailed list at the end of this document.

This section should be reviewed before completeing your ULP complaint.

TIMING THE FILING OF YOUR ULP COMPLAINT

The ALRB states that an Unfair Labour Practice Complaint should be filed no later than 90 days from "the date on which you knew, or in the opinion of the Labour Board ought to have known", of the incident(s) leading to the complaint. In an organizing campaign, file your ULP as soon as possible as it may affect the organizing campaign. Same in a decertification campaign.

If you are complaining about Union conduct and you file your ULP in time, the ALRB may refuse to consider the card as valid evidence of support for the Union. You should complain as quickly as possible; otherwise, it may be too late. Any objections to a Union's certification application must be provided at least a full day before the certification hearing

DELIVER YOUR FORMS

You must deliver the Forms to the ALRB. The [Board's website](#) offers a comprehensive, explanation of when and how to deliver your forms.

You can send your decertification documents (your application, the individual forms and a copy of the collective agreement) by fax, hand-delivery, courier or registered mail. But, the best way is to hand-deliver them or courier them.

Usually, we'd say fax your documents, but the rules say that if you fax your documents you still need to courier or hand-deliver the originals within 3 days.

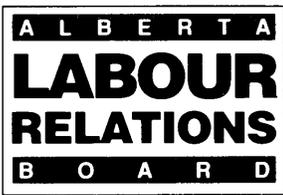
WHAT HAPPENS NEXT?

The ALRB can order the Union to "cease & desist" its actions. It may also refuse to consider any membership evidence for a certification application that was obtained through coercion, intimidation, threats, promises, or undue influence. If there has already been a representation vote for certification or decertification, the ALRB can order a re-vote.

The ALRB site states specifically what possible remedies may be granted:

- If the ALRB finds the complaint is justified, it may take whatever interim or final action it feels is necessary to rectify the breach of the Alberta Labour Relations Code complained about, including ordering that:
 - The practice be stopped
 - An employee suspended or discharged be reinstated and compensated
 - An employee be reinstated or admitted as a member of a trade union
 - An unfair disciplinary action or penalty be lifted, and compensation paid (Section 17)
- In extreme cases, the ALRB may remedy an unfair labour practice by granting or revoking a registration or certification. However, any such

order is subject to a vote by the affected employers or employees.



UNFAIR LABOUR PRACTICE COMPLAINT

- Form LRB 04 (April 2017). Please type or print clearly. Attach extra pages if necessary.
- Parties may use this form in making a complete complaint.
- For information or assistance in completing this form, refer to the Rules of Procedure and Information Bulletins 2 or call the Labour Relations Board at (780) 422-5926 (Edmonton) or (403) 297-4334 (Calgary).
- Any personal information provided herein is collected under the authority of section 33(c) of the *Freedom of Information and Protection of Privacy Act* ("FOIP"), for the purpose of processing your application to the Labour Relations Board. Any further personal information received in written or oral submissions will be collected under that authority. The collection, use and disclosure of this information is managed pursuant to FOIP. Any information provided to the Board that is relevant to the application must in the normal course be provided to all affected parties to the application, so all parties know the case to be heard and have an opportunity to respond. Questions about the collection or use of personal information can be posed to the Board Officer appointed to your file, or the Board's FOIP Coordinator at 501, 10808 99 Avenue, Edmonton, AB, T5K 0G5, or (780) 422-5926.

COMPLAINANT INFORMATION

- *person, trade union, employer or employers' organization making the complaint*

Name:

Complete Mailing Address:

Postal Code:

Business Telephone:

Residence Telephone:

Fax Number:

Name of Contact Person:

Mailing Address (*if different from above*):

Business Telephone:

ADDITIONAL COMPLAINANTS

- *List any additional complainants who are making the same complaint against the same parties or person*

Name:

Address:

Postal Code:

Telephone Number:

Fax Number:

Name:

Address:

Postal Code:

Telephone Number:

Fax Number:

Name:

Address:

Postal Code:

Telephone Number:

Fax Number:

WHO IS YOUR COMPLAINT AGAINST?

• *person, trade union, employer or employers' organization who you are complaining about*

1 Name:

Mailing Address:

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

2 Name:

Mailing Address:

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

3 Name:

Mailing Address

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

4 Name:

Mailing Address

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

5 Name:

Mailing Address

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

6 Name:

Mailing Address

Postal Code:

Business Telephone No:
Fax Number:

Residence Telephone No.:

WHICH SECTIONS OF THE CODE OR THE ACT DO YOU ALLEGE HAVE BEEN VIOLATED?

- *You must specify the subsection where appropriate.*
- *If there is more than one respondent specify which section each respondent is alleged to have violated.*

PARTICULARS: WHAT ARE THE DETAILS OF YOUR COMPLAINT?

- *Give the facts and circumstances you allege violate the Code, or the Act.
Include all relevant information.*
- *Detail how each section of the Code or Act is alleged to have been violated by each respondent.*

OTHER PROCEDURES

- Are any other proceedings outstanding or being contemplated with respect to these allegations? (i.e. grievance or arbitration, statutory complaint, etc.) If yes, give details.

REMEDIES

- What remedies are you asking the Labour Relations Board to order if the Board finds in favour of the complaint. Specify which remedies apply to which of the respondents.

FOR BOARD USE ONLY:

Board File Number: _____

Checked by _____ Received by _____ Input by _____

Signature of Complainant or Agent: _____

Printed Name: _____

Position: _____

Date of Signing: _____

Complete and deliver to:

Labour Relations Board
#501, 10808 – 99 Avenue
Edmonton, AB T5K 0G5
Fax: (780) 422-0970

Labour Relations Board
#308, 1212 31 Avenue, N.E.
Calgary, AB T2E 7S8
Fax: (403) 297-5884

*(Applications can be faxed to the Board.
The Board does not require original applications.)*

Excerpts from the Alberta Labour Relations Code relating to Unfair Labour Practices by a Union:

Prohibited practices by trade union, etc.

151 No trade union and no person acting on behalf of a trade union shall

- (a) seek to compel an employer or employers' organization to bargain collectively with the trade union if the trade union is not the bargaining agent for a unit of employees that includes employees of the employer;
- (b) bargain collectively or enter into a collective agreement with an employer or employers' organization in respect of a unit, if that trade union or person knows, or in the opinion of the Board ought to know, that another trade union is the bargaining agent for that unit of employees;
- (c) participate in or interfere with the formation or administration of an employers' organization;
- (d) except with the consent of the employer of an employee, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming or to cease to be a member of a trade union;
- (e) authorize, encourage or consent to a refusal by any employee in a unit in respect of which the trade union is the bargaining agent to perform work for the employee's employer for the reason that other work was or will be performed or was not or will not be performed by any persons or class of persons who were not or are not members of a trade union or a particular trade union;
- (f) use coercion, intimidation, threats, promises or undue influence of any kind with respect to any employee with a view to encouraging or discouraging membership or activity in or for a trade union;
- (g) require an employer to terminate the employment of an employee because the employee has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;
- (h) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on a person by reason of the person having refused to perform an act that is contrary to this Act;
 - (i) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on any person
 - (i) for engaging in employment in accordance with the terms of a collective agreement between the person's employer and the trade union, or
 - (ii) for engaging in employment with an employer who is not a party to a collective agreement with the trade union if the trade union fails to make reasonable alternate employment available to that person within a reasonable time with an employer who is a party to a collective agreement with the trade union, unless the trade union and that person are participating in a strike that is permitted under this Act.

152(1) No trade union or person acting on behalf of a trade union shall

- (a) expel or suspend a person from membership in the trade union or deny membership in the trade union to a person by applying to the person in a discriminatory manner the membership rules of the trade union;
- (b) take disciplinary action against or impose any form of penalty on a person by applying to the person in a discriminatory manner the standards of discipline of the trade union.

(2) The Board has no jurisdiction to hear a complaint made under subsection (1)(a) or (b) unless the complainant establishes to the satisfaction of the Board that

- (a) the complainant presented an appeal to the trade union in accordance with the appeal procedure established by the trade union, and
 - (b) the trade union failed to deal with the matter within 6 months of the date the complainant made that appeal.
- (3)** Subsection (2) does not apply when the Board is satisfied that
- (a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay, or
 - (b) the trade union has not given the complainant ready access to a reasonable appeal procedure.