

# HOW TO NEWFOUNDLAND AND LABRADOR | 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 Newfoundland and Labrador. If you have a problem with a Union's actions that your Employer cannot address with the Newfoundland and Labrador Labour Relations Board and the Union, you are expected to take it up with the Union or go to the NLLRB yourself, or with a lawyer. Generally, Employees are discouraged from approaching their Employer regarding a Union's conduct.

Similarly, in Newfoundland and Labrador, Employers are discouraged from offering assistance to you if you have concerns with the Union's actions. However, while the Employer may not pay legal fees of the Employees, there are times that Unfair Labour Practices (ULP) against the Union could be raised by an Employer. These situations are unusual so please read [Question 1](#) of the Newfoundland and Labrador Unfair Labour Practices FAQ in our Downloads section for more information. In fact, print and read all nine of the ULP FAQs.

While there are many sections of the Newfoundland and Labrador Labour Relations Act about Unfair Labour Practices, most relate to the relationship between Employers and the Union. We will only address 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 information and resources available from them.

## GET THE FORMS

The NLLRB does not have a process specifically for filing an Unfair Labour Practice. Theoretically you could just use a letter explaining your complaint to the NLLRB. However, LabourWatch has designed a form for you to use. It is attached to the end of this document.

## COMPLETE THE FORMS

The form we have made up is very straight forward. Put in as much detail as possible, attach extra pages if you need them. If you have a lawyer enter their name in as Counsel. If you are having trouble completeing the form, or understanding anything you may want to contact one of our Employee Advisors in your area. Go to our [Contacts](#) page for a list of them.

We have attached excerpts from the Newfoundland and Labrador Labour Relations Act. There is a place on the Form for you to name the section of the code you are feel has been breached.

## TIMING THE FILING OF YOUR ULP COMPLAINT

There are some references in the Newfoundland and Labrador Labour Relations Act about how long have to file a complaint under some sections. However, as there is no official procedure regarding ULP's we would suggest that the best rule is to file your documents as soon as possible.

If you are making a complaint about Union conduct during a certification drive you should be especially careful about filing your complaint as soon as possible. If the NLLRB feels your complaint has merit they may throw out the certification application. If you wait too long though the Union may be certified and your complaint will probably not be heard then.

## DELIVER YOUR FORMS

You can send your ULP documents by fax, hand-delivery, courier or even registered mail. They will want the originals so make sure to keep copies for you.

The contact information for the NLLRB is available on its [website](#).

## WHAT HAPPENS NEXT?

The Newfoundland and Labrador Labour Relations Act has some specific language about what it will do in the event of an Unfair Labour Practice. It includes from making the Union stop what it has been doing up to awarding monetary damages to you.

If the Union does not stop, or refuses to pay any damages the Newfoundland and Labrador Labour Relations Act states that they may then file the order with the Supreme Court of Canada.

**Unfair Labour Practice Complaint Against a Union  
LABOUR RELATIONS ACT**

**Complainant (i.e. Employee) Information**

|                            |            |
|----------------------------|------------|
| Name: _____                |            |
| Address: _____             |            |
| Telephone Number (s) _____ | Fax: _____ |

**Counsel or representative (if applicable)**

|                            |            |
|----------------------------|------------|
| Name: _____                |            |
| Address: _____             |            |
| Telephone Number (s) _____ | Fax: _____ |

**Name and address of others who may be affected by the application**

|  |            |
|--|------------|
| Name: _____                            |            |
| Address: _____                         |            |
| Telephone Number (s) _____             | Fax: _____ |
| Name: _____                            |            |
| Address: _____                         |            |
| Telephone Number (s) _____             | Fax: _____ |
| <i>Attach another page if required</i> |            |

**Section of the Labour Relations Act under which the application is being made:**

**Full particulars of the facts, relevant dates and grounds for the application:**

**List all documents in chronological order that support your complaint, and attach copies of listed documents with this complaint:**

**A description of the order or decision being sought by the applicant - what would you like the Board to do about this?**

[Empty rectangular box for text input]

## **Unfair Labour Practices Newfoundland**

**28.** (1) An employee, or person acting on behalf of a trade union, shall not use coercion or intimidation with a view to encourage or discourage membership in or activity in or for a trade union, but nothing in this Act precludes a person acting on behalf of a trade union from attempting to persuade an employer to make an agreement with that trade union requiring, as a condition of employment with that employer, membership or maintenance of membership in that union or other condition with regard to employment, where the union has been designated or selected by a majority of employees in the unit concerned as their bargaining agent.

(2) Except with the consent of the employer, but subject to an order made by the board under section 34, a trade union and a person acting on behalf of a trade union shall not attempt, at an employer's place of employment during the working hours of an employee of the employer, to persuade the employee to become or refrain from becoming or continuing to be a member of a trade union.