

# HOW TO SASKATCHEWAN | 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 Saskatchewan. If you have a problem with a union's actions that your employer cannot take to the Saskatchewan Labour Relations Board and the union, you are expected to take it up with the union or go to the SLRB yourself, or with a lawyer if you can find one to help you or you can afford to hire a lawyer. Generally, employees are discouraged from approaching their employer with concerns about what a union is doing or has done.

Similarly, in Saskatchewan, employers are discouraged from offering assistance to you if you have concerns with the union's actions. However, while the employer may not pay the legal fees of employees, there are times when Unfair Labour Practices (ULP) against the union could be raised by an employer. Please read [Question 1](#) of the Saskatchewan Unfair Labour Practices FAQs in our Downloads section for more information. In fact, print and read all nine of the ULP FAQs.

There are many sections of the Saskatchewan Trade Union Act about Unfair Labour Practices, most relate to the things that happen between employers and unions. Our website only looks at issues between employees and unions. The union that wants to unionize you or has unionized you, should help employees who want to file a ULP against their employer. LabourWatch does not attempt to duplicate the information and resources that unions have and should help employees with.

Unions are prohibited from discriminating against a person in regard to employment or a term or condition of employment, or intimidating or coercing or imposing a monetary or other penalty on a person, because of a belief that they may testify in a case under the Saskatchewan Trade Union Act, or because they have made or are about to make a disclosure that may be required of them in a proceeding under the Saskatchewan Trade Union Act, or because he has made an application or filed a complaint under the Saskatchewan Trade Union Act, or because they have participated in or are about to participate in a proceeding under the legislation.

## GET THE FORMS

When you work for a unionized employer, you give up your rights to represent yourself to your employer about everything related to your work. So, when you want to file an Unfair Labour Practice complaint with the SLRB you have to actually apply to get your rights back. You have to apply for and get "Intervenor Status".

If you are not unionized and your complaint is about a concern you have with what a union has done in trying to unionize your workplace then you also have to apply for and get "Intervenor Status" so that you can have the SLRB hear your complaint.

The SLRB does not have a specific form for doing this so LabourWatch has modified one of the other forms on the SLRB web site to help you. Our form is attached to this document.

You will need to complete and file the **Notice of Intervention** and the **Unfair Labour Practice Complaint** forms. You will also need three extra signed copies of the Notice of Intervention Form, and five signed extra copies of the ULP Complaint Form. Remember that one of the copies is for your own records.

## COMPLETE THE FORMS

When you complete the Forms, the SLRB requires that everything you write down is in clear simple statements of fact. You should explain things that happened, or things that should have happened, but didn't. Make sure you write carefully and as simply as possible, explain everything. Use as many pages as you need.

The Notice of Intervention is fairly simple. In Section 1 you would include the information about you, and the name of the union or person from or doing things for the union that you are complaining about. Section 2 is where you would explain that you are seeking Intervenor Status so you can file an Unfair Labour Practice Complaint.

## TIMING THE FILING OF YOUR ULP COMPLAINT

The law is that you have 90 days to file your complaint. To be clear: you must file it within 90 days of when it happened, or you learned that it happened. The law states that the SLRB may refuse to hear your case if you file more than 90 days after you knew, or if the SLRB decides that you should have known. Finally, the union can agree to the 90 day deadline being extended.

If you are complaining about things a union said or did during a drive to unionize you and you oppose the drive – you should to file immediately. You may want to speak with one of the [Employee Advisors](#) in your area - they are listed on the LabourWatch site. If the SLRB receives a ULP after the certification has been granted it will be too late.

## DELIVER YOUR FORMS

You should file the original and two signed copies on the Notice of Intervention with the SLRB. File the original and three copies of the Unfair Labour Practice complaint. Remember to keep copies for yourself.

You can send them by hand delivery, courier, or registered mail. Registered mail can be slow so we do not recommend that.

Do not fax them.

## WHAT HAPPENS NEXT?

If the SLRB agrees (all or in part) that the union committed an Unfair Labour Practice, they can order union to stop whatever it was doing. Also, the ULP may affect use of the cards as evidence of support for a certification drive, and in certain cases they may order the union to pay your legal fees to challenge what occurred.



Saskatchewan  
Labour Relations  
Board

## UNFAIR LABOUR PRACTICE APPLICATION

1. \_\_\_\_\_  
*(name of applicant)*

of: \_\_\_\_\_  
*no. street city/town province postal code telephone fax*

hereby applies to the Labour Relations Board for an order determining whether an unfair labour practice (or a violation of the Act) is being and/or has been engaged in by the \_\_\_\_\_  
*Person or Union*  
designated in paragraph 3 of this application, and requiring the said \_\_\_\_\_  
*Person or Union*  
refrain from engaging in the said unfair labour practice (or violation of the Act) within the meaning of *The Trade Union Act*, particulars of which are set out below.

2. The applicant is :

Name: \_\_\_\_\_ Office Held: \_\_\_\_\_

Address: \_\_\_\_\_  
*no. street city/town province postal code telephone fax*

3. The name and address of the Person or Union concerned are as follows:

Name: \_\_\_\_\_

Union Name & Local#: \_\_\_\_\_

Address: \_\_\_\_\_  
*no. street city/town province*

\_\_\_\_\_ *postal code telephone fax*

4. The applicant alleges that an unfair labour practice (or a violation of the Act) has been and/or is being engaged in by the said \_\_\_\_\_ by reason of the following facts:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Here state clearly and concisely all relevant facts indicating the exact nature of the practice or violation complained of. Additional material in the form of Exhibits properly verified by statutory declaration may be included.)*

5. The applicant \_\_\_\_\_ submits that by reason of the facts hereinbefore set forth the said \_\_\_\_\_ has been or is engaging in an unfair labour practice (or a violation of the Act) within the meaning of Section \_\_\_\_\_ of *The Trade Union Act*.

I, the undersigned, hereby solemnly declare that the submissions above set forth, 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

## **Excerpts from the Saskatchewan Trade Union Act regarding Unfair Labour Practices against Unions**

### **11**

(2) It shall be an unfair labour practice for any employee, trade union or any other person:

- (a) to interfere with, restrain, intimidate, threaten or coerce an employee with a view to encouraging or discouraging membership in or activity in or for a labour organization, 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 to require as a condition of employment membership or maintenance of membership in the trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if such trade union has been designated or selected by a majority of employees in an appropriate unit as their representative for the purpose of bargaining collectively;
- (b) to commence to take part in or persuade an employee to take part in a strike while an application is pending before the board or any matter is pending before a board of conciliation or special mediator appointed under this Act;
- (c) to fail or refuse to bargain collectively with the employer in respect of employees in an appropriate unit where a majority of the employees have selected or designated the trade union as their representative for the purpose of bargaining collectively;
- (d) to declare, authorize or take part in a strike unless a strike vote is taken by secret ballot among the employees who are:
  - (i) in the appropriate unit concerned; and
  - (ii) affected by the collective bargaining; and unless a majority of the employees voting vote in favour of a strike, but no strike vote by secret ballot need be taken among employees in an appropriate unit consisting of two employees or fewer;
- (e) to seek or take steps to have an employee discharged for failure to acquire or maintain membership in a trade union, where such membership is a condition of employment, if the employee complies with subsection 36(3);
- (f) to use coercion or intimidation of any kind against an employee with a view to discouraging activity which might lead to the rescission of an order or decision of the board under clause 5(a), (b) or (c).



Saskatchewan  
Labour Relations  
Board

**NOTICE OF INTERVENTION**

1. Name \_\_\_\_\_  
*(Name of intervening Employee)*

of: \_\_\_\_\_  
*no. street city/town province postal code telephone fax*

hereby gives notice that they will intervene in the matter of their Unfair Labor Practice application  
respecting: \_\_\_\_\_  
*(name of Person or Union affected by the complaint)*

2. Other relevant facts (if any) touching the originating application and this notice are as follows:\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, the undersigned hereby solemnly declare that the submissions above set forth, 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*.

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\_\_\_\_\_) )  
\_\_\_\_\_) )

\_\_\_\_\_  
(signature)

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Oaths in and for the Province of Saskatchewan