

SINGLE-EMPLOYER LOCKOUT POLLS

INTRODUCTION

The [Labour Relations Code](#) prohibits lockouts until any existing collective agreement has expired, the parties have been through mediation, and the employer has approved lockout action through a poll. A single-employer lockout poll is the counterpart of a union's strike vote. The single-employer lockout poll signals the employer's intention. It gives the union a warning of lockout action, and a chance for last-minute mediation.

Supervision, in this context, means making sure the lockout is allowed for the proposed unit of employees and is timely. This policy sets out the Board's procedures and supplements Information Bulletin #16 and the Voting Rules. For more information on strikes and lockouts, see: [[Strikes and Lockout, Chapter 30\(a\)](#)].

SUPERVISION

The assigned Board officer has primary responsibility for supervision of a lockout poll. The officer must make sure the application conforms with the [Code](#) and the Board's requirements. If the officer is not satisfied with the application, discuss it with the applicant. Should the applicant refuse to make any changes to the application, refer this matter to the Director of Settlement.

INITIAL RECEIPT OF APPLICATION

Applications arrive by mail, fax or personal delivery. For more information on handling and coding see: [[Incoming Mail, Courier and Fax, Chapter 11\(a\)](#)]. Upon receipt by mail or fax, date and time stamp the application. Forward it immediately for review by a Board officer or the Director of Settlement. Encourage applicants who come in person to discuss the application with a Board officer. That way, obvious problems can be corrected right away. Do not date and time stamp the personally delivered application until an officer, or the Director of Settlement, has reviewed it.

Examine the application and the related documents in detail for completeness and obvious errors. The employer must use the Board's approved form. If there are no problems with the personally delivered application, date and time stamp it. Ensure the applicant has served a copy of the application on the respondents.

Discuss any problems with the applicant. If they choose to make changes to the application, have them initial these changes. The applicant may also choose to file a new application.

WHEN CAN THE APPLICATION BE FILED?

The Board will accept an employer lockout poll application at any time. A lockout poll must,

however, meet the same timeliness requirements as strike or lockout votes. For more information see: [[Strike and Lockout Votes, Chapter 28\(b\)](#)]. Technically, the Board will accept an application before the collective agreement or the cooling-off period expire, so long as the employer does not sign the ballot until after that time. Practically, most employers will wait and file both documents together once they are timely. The applicant must serve the application on the respondent.

The [Code](#) allows more than one lockout poll per dispute. Such a poll becomes “stale dated” after 120 days. See: [[Section 77\(1\)](#)]. The Board cannot supervise a lockout poll two years or more after the end of the cooling-off period. See: [[Section 77\(2\)](#)].

ACKNOWLEDGEMENT AND PROCESSING

Enter the application in the database and make up a SL file. Where the application and the ballot are filed at the same time, call the respondent after accepting the application and confirm they have been served. Advise of the application in writing. Send Mediation Services a copy of the application. Make a check mark at the top of the first page to show this has been done.

Send the respondent the letter, Information [Bulletin #16](#) and the [Voting Rules](#). If someone raises objections, the Board officer should try to resolve them with the parties. If unsuccessful, refer the issue to the Board for a final determination (with notice to the parties). In the rare case where an employer applies but does not enclose a ballot, confirm the union has received a copy of the application and acknowledge it in writing pending approval. When the ballot is cast, approval and the poll results should be acknowledged separately with a copy to the union.

REVIEWING THE APPLICATION FOR APPROVAL

The Board officer’s role at this stage is to make sure the application meets all the Board’s requirements before giving Board approval. Areas to check include:

- identity of the parties and the dispute;
- timeliness of the application;
- the ballot and declaration; and
- a copy of the letter from the mediator writing out of the dispute.

Giving notice of the application to the respondent allows them to raise objections.

Details of the Parties and the Dispute

Check that areas 1 and 2 on the application form show the complete names and addresses of the applicant and the respondent. Where a trade union has individual locals, the application must show the proper local union number. Get telephone and fax numbers for the parties if not provided or available on the database.

Make sure the parties listed are indeed the parties to the dispute. Check the Collective Bargaining Information in area 3. Make sure you get a clear understanding of who is involved in the dispute.

This may mean checking with [Mediation Services](#), reviewing the collective agreement and reviewing the Board's records concerning the bargaining relationship. If an employer engages in formal employers' association group bargaining, the association must apply for any lockout vote. Employers involved in group bargaining cannot apply for their own lockout poll.

Timeliness

A lockout poll must meet the same timeliness provisions as strike and lockout votes. See: [[Strike and Lockout Votes, Chapter 28\(b\)](#)]. This ties into the issues discussed under "When Can the Application be Filed?"

The Ballot and Declaration

The applicant provides the name of the trade union, including proper local union number, in area 5 of the ballot. Also, the employer votes on lockout action by marking "yes" or "no" on the ballot. Check the Declaration of Voter in area 6. The applicant must provide the information required on the form. This ensures that an authorized person casts a ballot on the employer's behalf. It is up to the employer's Board of Directors, Council or internal rules to determine what constitutes appropriate authorization. The [Code](#) does not regulate who can act as an employer's authorized polling person.

APPROVING THE APPLICATION

Before approving a lockout poll, satisfy yourself that the application meets all of the Board's requirements. Discuss all difficulties with the applicant. If the applicant refuses to accept any changes, refer the matter to the Director of Settlement. [Voting Rule 27](#) gives the Director of Settlement or a supervising officer the power to approve an application or to make amendments with the applicant's concurrence. If the Director has concerns over the poll, refer the matter to the Chair or Vice-Chair [[Voting Rule 28](#)]. The Chair or Vice-Chair can make a ruling or give appropriate directions.

Once the supervising officer is satisfied with the lockout poll application, prepare and send the applicant and the respondent(s) a formal approval letter. Send a copy to the respondent union. Except in the odd case of an early application without a ballot, the approval letter will also report the poll result.

Immediately enter the results of the poll in the database. Only release the results of the poll once the Board informs the affected union and the 24-hour objection period has passed. Conclude the matter on the Board's database.