

EMPLOYER DOMINATED OR INFLUENCED TRADE UNIONS

INTRODUCTION

Employers must not interfere with union activity. Trade union independence is protected by several provisions. Section 148(1)(a)(i) prohibits employer interference with or participation in the formation or administration of a trade union. Section 148(1)(a)(ii) prohibit employer interference with the representation of employees. See: [[Unfair Labour Practices by Employers, Chapter 27\(b\)](#)]. Section 148(1)(b) prohibits employer contribution of financial or other support to a trade union. These provisions ensure the union is not influenced by the employer. Section 38(1) bars certification if employer domination or influence is present. Section 133(1) permits the Board to void collective agreements on the same basis. This policy discusses the employer domination and influence prohibitions and the unfair labour practice safeguards against employer interference in trade union activity.

STATUTORY PROVISIONS

Section 38(1) prohibits the Board from certifying employer dominated or influenced unions. The [Code](#) states:

38(1) A trade union shall not be certified as a bargaining agent if its administration, management or policy is, in the opinion of the Board,

- (a) dominated by an employer, or
- (b) influenced by an employer so that the trade union's fitness to represent employees for the purposes of collective bargaining is impaired.

Any affected party can object to a certification on the basis of Section 38(1). When an objection is raised, the Board decides the question at a hearing prior to granting a certificate.

Section 148 of the [Code](#) prohibits employer interference or participation throughout the existence of the bargaining relationship.

148(1) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

- (a) participate in or interfere with
 - (i) the formation or administration of a trade union, or
 - (ii) the representation of employees by a trade union,
- or
- (b) contribute financial or other support to a trade union.

The union representing the employees must truly represent the employees and their interests. If employer dominated, it can not effectively represent the employees in relations with the employer. Section 133 permits the Board to declare a collective agreement void if the employer dominates or influences the administration, management or policy of the trade union.

133(1) Any collective agreement entered into between an employer or an employers' organization and a trade union may be declared by the Board to be void when in its opinion the administration, management or policy of the trade union is

(a) dominated by an employer, or

(b) influenced by an employer so that the trade union's fitness to represent employees for the purpose of collective bargaining is impaired.

CASE LAW

The Alberta Board dealt with Section 131 in *IBEW 348 v. AGT and AGT Clerical Employees* [1981] Alta.L.R.B. 81-039. In that case, the Board said:

A union cannot, in our opinion, effectively represent employees in collective bargaining if the manner in which it conducts its affairs must be approved by management or may be altered by management. That is influence of the highest order.

The leading Alberta case on Sections 133(1) and 148(1)(b) is *Labourers 1111 et al. v. Sie-Mac Pipeline Contractors Ltd. and Spear Construction Inc. and General Workers Union 1* [1991] Alta.L.R.B.R. 847. In this case, the employer entered into a voluntary recognition collective agreement to create a bar to certification applications by building trades unions. In return, the employer gave the union a mandatory dues deduction clause. The union provided no service to employees in the unit and enjoyed no independent support from or presence among the employees. The Board found that the employer dominated or influenced the union such that the union's ability to represent employees was impaired and voided the collective agreement.

PROCESSING

Employer domination is often discovered during a certification application and is discussed in Chapter 21(d). Violations of Section 148 may also be a part of an unfair labour practice complaint filed by a union. See: [[Unfair Labour Practices by Employers, Chapter 27\(b\)](#)].