

#1 INTRODUCTION TO LABOUR RELATIONS BOARD PROCEEDINGS

I. INTRODUCTION

This Bulletin introduces the proceedings of the Alberta Labour Relations Board.

The Alberta Labour Relations Board (the "Board") is responsible for administering a large part of the *Labour Relations Code* ("LRC" or the "Code") and the *Public Service Employee Relations Act* ("PSERA" or the "Act") and parts of the *Police Officers Collective Bargaining Act*. It acts as a neutral body where the parties to labour relations can have their applications dealt with and their complaints resolved.

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This Bulletin describes the type of applications dealt with by the Board. It describes how to start proceedings before the Board. It contains information about how the Board processes applications and matters before it. It also describes the help that is available for those wanting to know more about the Labour Relations Board and its functions.

II. WHAT MATTERS DOES THE BOARD HANDLE?

The Board handles several types of matters such as:

- applications for certification from trade unions wanting to be bargaining agents for employees;
- applications from employees, trade unions and employers to modify or cancel collective bargaining rights;
- supervision or conduct of the various votes by employees and employers under the Code and the PSERA;
- resolving disputes about the meaning of the Code and the Acts;
- hearing "unfair labour practice" complaints. These are complaints that the fair play rules of labour relations established by the Code and the Acts have been breached. The Board grants appropriate remedies when a party establishes a complaint;
- hearing and deciding applications on factual issues such as whether a person is included in or excluded from a bargaining unit, although Board proceedings are not a substitute for arbitration.

See: Section 12; PSERA Section 3(2); *Guide to Alberta's Labour Relations Laws*.

III. WHAT MATTERS DOES THE BOARD NOT HANDLE?

While the Board is responsible for much of the administration of the Code and the Act, various branches of Alberta Human Services also have responsibilities under both. As well, the Code and the Act are not the only pieces of legislation that cover workers' rights in Alberta. Finally, the parties to collective bargaining and working relationships have other problem-solving mechanisms available to them such as arbitration boards.

Some of the matters handled elsewhere are:

Mediation

The Labour Relations Board appoints mediators to collective bargaining disputes under the *Public Service Employee Relations Act*. The Director of the Mediation Services Branch appoints mediators under the *Labour Relations Code*. See: *Section 65(1), (2); PSERA Section 28*.

Employment Standards

The Board is not responsible for the *Employment Standards Code* ("ESC"). The Employment Standards Branch administers the ESC. It deals with minimum wages, hours of work and matters of that kind. For the address of the branch nearest you, contact Alberta Human Services, Employment Standards Branch toll free at 310-0000 then dial (780) 427 - 3731.

Wrongful Dismissal

The Board does not normally deal with wrongful dismissal cases. Individuals deal with this problem through their union or, if non-union, through civil action or an employment standards complaint. An exception to this is the limited case of dismissals related to the exercise of rights under the *Labour Relations Code*. See: *Section 23*.

Grievances

The Board does not deal with disputes about the meaning or application of collective agreements. Trade unions and employers deal with these through the grievance and arbitration process established in their collective agreement.

Through the duty of fair representation provisions of the Code, the Board is sometimes asked to review the procedure a trade union uses to deal with grievances. See: *Sections 134 to 146, 153*.

IV. HOW DOES A MATTER COME BEFORE THE LABOUR RELATIONS BOARD?

Persons or parties with a problem under the *Labour Relations Code* or the *Public Service Employee Relations Act* make their application, complaint or reference to the Board. The term "application" used throughout these Bulletins can be read to include complaints and references. See: *Bulletin 2*.

Before going to the Board, persons should review the particular section of the Code or the Act they wish the Board to act upon. They should also consult the Board's Rules of Procedure or Information Bulletins, as applicable.

When they file an application, complaint or reference, the person or party must include a statement showing they have given a copy of the application to all parties or persons affected by the application. Certification and revocation applications and urgent matters are excepted. An urgent matter is one involving an illegal strike or lockout, picketing or hot cargo which may require a Board hearing and directive on short notice. Where an application involves notifying a group of employees at a worksite, the Officer may direct the Employer to post a notice at the worksite. *See: Sections 16; Rules of Procedure, Rules 4, 5.1; Sections 71-72, 84-87.*

The Board encourages parties to meet and discuss the matters between themselves before and after filing an application. In such discussions, the parties should share positions, exchange information, facts and documents, attempt to agree on facts and documents to present to the Board and attempt to reach resolution on the issues. Resolutions reached by the parties are favoured where possible and, where not possible, any agreement on facts or documents can substantially reduce the time and expense related to a hearing into the matter. The Board may appoint an Officer to assist the parties in these discussions or the parties may request the involvement of an Officer. *See: Bulletin 3.*

Certification and Revocation

Applications for certification or for revocation of bargaining rights begin with the filing of an application. The Board provides a form for parties to use. *See: Bulletins 8, 13.*

Votes

Parties applying for the supervision of strike or lockout votes need to complete an application form supplied by the Board. Those applying for the conduct of proposal votes during collective bargaining also need to file an application form available from the Board. *See: Bulletins 15, 16.*

Urgent Matters

An urgent matter involves either an illegal strike, an illegal lockout, regulation of picketing or hot cargo. Parties filing an application on an urgent matter may use a letter, but must use the content format provided by the Board. *See: Sections 71, 72, 84, 85, 87, 88; Rules of Procedure, Rule 4; Bulletin 17.*

Other Matters

Persons or parties can start most other applications or complaints by using a letter outlining the details necessary for the particular application or an optional application form available from the Board's offices. *See: Rules of Procedure, Rules 4, 5.*

V. HOW DO PEOPLE KNOW SOMEONE HAS MADE AN APPLICATION TO THE BOARD?

A party filing an application or complaint with the Board must provide a copy to all affected parties - employers, unions, employees, as the case may be. If a party has questions about whom to provide notice to, they can refer to Information Bulletin 2 or call a Board Officer for information. The Board may notify employees of applications by the use of notices posted at the work site. *See: Rules of Procedure, Rules 5.1, 9-22; Bulletin 2.*

Persons may obtain information about a Board proceeding by contacting any Board Officer at one of the Board offices mentioned below. Board notices will also inform persons how they can

get further help or information. Information about new applications and hearings is available on the Internet: <http://www.alrb.gov.ab.ca>.

VI. HOW CAN A GROUP OF EMPLOYEES MAKE A REPRESENTATION TO THE BOARD?

Employees may wish to make a representation to the Board by using a petition or a letter or by attending a hearing.

The Board accepts employee petitions under certain conditions. The Labour Relations Board supplies forms for employees wanting to use a petition on a certification or revocation application. Trade unions wishing to demonstrate employee support can also use the forms.

The Code and the Act allow the Board to receive petitions and to keep the names of the petitioners confidential. To act upon a petition, the Board will need to hear from a spokesperson for the petitioners. See: *Bulletins 8, 13*.

The petition should name the spokesperson. This person will be the person to whom the Board will give notice and other information for the petitioning employees. This spokesperson will need to establish for the Board that the employees freely signed the petition. If a spokesperson for petitioning employees fails to attend a hearing after notice, the Board may not act upon the petition. See: *Rules of Procedure, Rule 28*.

Employees who want to attend a hearing to make their views known should advise the Board officer before the hearing. See: *Bulletin 4*.

VII. WHAT HELP IS AVAILABLE IN MAKING APPLICATIONS BEFORE THE BOARD?

The Board is neutral in all proceedings. While the Board makes information available about its procedures, it does not act to assist any one party in a proceeding.

Board Resources

There are several resources available from the Board to explain the Board's procedures.

A general Guide to Alberta's Labour Laws describes the Labour Relations Board and its role and outlines the collective bargaining system. See: <http://www.alrb.gov.ab.ca/guideopening.html>.

This Bulletin is the first in a series of Information Bulletins covering most of the Board's specific procedures. Other bulletins explain such matters as how the Board handles applications and what the Board looks for in certifying a bargaining unit.

The Board has Rules of Procedure and Voting Rules which specify how the Board will deal with applications and complaints before it.

All of the above materials are also available in a single source called the *Labour Relations Board Practitioner's Manual*. This Manual also contains an annotated Code which identifies some key cases for most sections.

The Board's written decisions are published regularly in the Alberta Labour Relations Board Reports.

Recent formal and letter decisions, as well as all of the Board's Bulletins, Rules, and Forms are available on-line through the Board's website at: <http://www.alrb.gov.ab.ca>.

Board staff are available to assist the parties in understanding the Board's processes. The Board's Officers conduct investigations and settlement efforts on behalf of the Board. However, Officers do not represent any one party. A party wishing a person to represent them should consult an experienced representative or counsel. *See: Sections 12(2)(b), (h), 13.*

External Resources

Some parties appear before the Board on their own behalf while others use agents or lawyers. The choice rests with the party involved.

Parties are encouraged to share information, explore options and find agreeable processes and resolutions wherever possible. Board officers may be asked to assist the parties in certain cases. In other cases, the parties may wish to consider independent mediation services. The Human Service's Workplace Effectiveness Group also has resources available to help the parties.

See also:

Guide to Alberta's Labour Laws
Information Bulletins
Rules of Procedure
Voting Rules
Alberta Labour Relations Board Reports
Employment Standards Code R.S.A. 2000, c.E-9

For further information or answers to any questions regarding this or any other Information Bulletin please contact:

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