

## DUTY OF FAIR REPRESENTATION COMPLAINT FORM

### Before You Start

In completing each section of the Complaint Form, Complainants (employees or former employees) should refer to the information provided in the Duty of Fair Representation Information Bulletin available on the Labour Relations Board's web site (<http://www.hrle.gov.nl.ca/lrb>).

As you fill out this form, if you require extra writing space, you may use additional pages ensuring all questions are numbered accordingly. All information should be printed clearly.

Copies of any relevant documents that you refer to in the complaint and intend to reply up, must be provided with the complaint form.

If you have any questions concerning this form, please contact a Board Officer at (709)729-2707.

Indicate under which Act the Duty of Fair Representation Complaint (application) is being filed:

- ☐ Section 130 of the **Labour Relations Act**
- ☐ Section 43 of the **Public Service Collective Bargaining Act**
  
- ☐ I have read, understand and agree with the enclosed **DISCLOSURE OF PERSONAL INFORMATION** (Openness and Privacy Policy) of the Labour Relations Board. (The agreement of a party is indicated by marking 'X').
  
- ☐ I have enclosed a copy of the relevant collective agreement.

### 1. Complainant Information (Person making the application)

First Name		Last Name	
Full Address (Number, Street, Unit/Apt Building)			P.O. Box
City/Town	Province	Country	Postal Code
Telephone Number	Fax Number	E-mail Address	
Name of Designated Contact or Legal Counsel (if any):			
Address (if different from above):			
Telephone Number	Fax Number	E-mail Address	
<b>NOTE: It is your responsibility to advise the Board of any changes to your contact information.</b>			

### 2. Bargaining Agent Information

Union Name:			
Contact Person - First Name		Contact Person - Last Name	
Full Address (Number, Street, Unit/Apt Building)			P.O. Box
City/Town	Province	Country	Postal Code
Telephone Number	Fax Number	Email Address	

3. Employer Information			
Employer Name			
Contact Person - First Name		Contact Person - Last Name	
Full Address (Number, Street, Unit/Apt Building)			P.O. Box
City/Town	Province	Country	Postal Code
Telephone Number	Fax Number	Email Address	

## **PART 1**

### **Section A**

4. Did you ask your bargaining agent (or representative of) to file a grievance on your behalf?

- ☐ **Yes**  
☐ **No**

If **no**, please proceed to **Section B**.

If **yes**, please provide the following particulars:

- i. What date did you ask to have the grievance filed? (dd/mm/yyyy)

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- ii. What was the name of the union representative you dealt with?

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- iii. Did the union file the grievance as requested?

- ☐ **Yes**  
☐ **No**

a. If **yes**, what date was the grievance filed? (dd/mm/yyyy)

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iv. What was the grievance number?

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v. Is the Union actively pursuing the grievance?

- ☐ **Yes**  
☐ **No**

a. If **no**, what date did you become aware that the grievance would not be filed? (dd/mm/yyyy)

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## Section B

5. If you did not ask your bargaining unit to file a grievance on your behalf, please provide the following particulars:

i. What date did you attempt to have the grievance filed? (dd/mm/yyyy)

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ii. What was the name of the Union representative you dealt with?

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iii. Briefly describe how you attempted to file a grievance. \_\_\_\_\_

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iv. Is the union actively pursuing the matter?

- ☐ **Yes**  
☐ **No**

a. If **no**, what date did you become aware that the Union was no longer pursuing the matter and would not be filing a grievance? (dd/mm/yyyy)

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6. A complaint **shall** be made within 90-days from the date on which the complainant knew, or in the opinion of the Board, ought to have known of the action or circumstances given rise to the complaint. What was the first date you became aware of the actions or circumstances giving rise to your complaint against your bargaining agent or local trade union? (dd/mm/yyyy)

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## **PART 2**

7. Describe the nature of the grievance, which the complainant filed or attempted to file.

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8. Describe the circumstances of the complaint including a chronology of the events, dates, times and people involved.

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9. Please provide details of the actions or conduct of the union officials that it is alleged were arbitrary, discriminatory or in bad faith.

A. Arbitrary: \_\_\_\_\_

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B. Discriminatory: \_\_\_\_\_

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**C. Bad Faith:** \_\_\_\_\_

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**10. What remedy is the Complainant seeking from the Board?**

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\_\_\_\_\_

\_\_\_\_\_

**11. Is a hearing required in this matter?**

- ☐ **Yes**
- ☐ **No**

**a. If yes, why do you believe it is necessary?**

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**12. Additional comments (if necessary).**

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**NOTE:** Please provide copies of any relevant documents that you have referred to in the complaint.

Each document must be clearly labelled so that it is clear when reading the application which attachment you are referencing.

(Examples of relevant documents: grievance forms, collective agreement, correspondence, regulations/policies, etc.)

**Signature of Complainant:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Date (dd/mm/yyyy)**\_\_\_\_\_

**Deliver completed form to:**

Labour Relations Board

5<sup>th</sup> Floor, Beothuck Building

20 Crosbie Place

PO Box 8700

St. John's, NL A1B 4J6

Fax Number: (709)729-5738      E-Mail: lrb@gov.nl.ca



## DECLARATION

I/We declare that the answers to the foregoing questions are true in substance and in face make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effects as if made under oath, and by virtue of the **Canada Evidence Act**.

Severally declared by the said

\_\_\_\_\_

and

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

before me at \_\_\_\_\_

in the District of \_\_\_\_\_

in the Province of Newfoundland and Labrador,

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(A Commissioner, etc.)

**(To be declared before a Commissioner for taking affidavits or any person authorized by law to administer an oath)**

## DISCLOSURE OF PERSONAL INFORMATION

### Openness and Privacy Policy

The Labour Relations Board (“the Board”) is an independent quasi-judicial tribunal that operates very much like a court and has responsibilities under the **Labour Relations Act; Public Service Collective Bargaining Act; Fishing Industry Collective Bargaining Act; Teachers’ Collective Bargaining Act; Interns and Residents Collective Bargaining Act; Labour Standards Act; Occupational Health and Safety Act; Smoke-Free Environment Act, 2005 and House of Assembly Accountability, Integrity and Administration Act; and Public Interest Disclosure and Whistleblower Protection Act**. This document outlines the Board’s policy on the openness of its processes and describes how it handles issues relating to privacy.

When filing any application with the Newfoundland and Labrador Labour Relations Board, all information included in the application is provided to the other party or parties as respondents or interested parties. Further, such information may be referred to in any order or reasons issued by the Board at the conclusion of the matter, on the Board’s website and in print and online reporting services that may publish the Board’s decision.

This Bulletin does not apply to the confidentiality of union membership information provided to the Board.

The open court principle is significant in our legal system. In accordance with that principle, the Board conducts its oral hearings in public, save for exceptional circumstances. Because of its mandate and the nature of its proceedings, the Board maintains an open justice policy to foster transparency in its processes, accountability and fairness in its proceedings.

The Board’s website, policy circulars, information bulletins and other publications advise parties and the community that its hearings are open to the public. Parties that engage the Board’s services should be aware that they are embarking on a process that presumes a public airing of the dispute between them, including the public availability of decisions. Parties and their witnesses are subject to public scrutiny when giving evidence before the Board, and they are more likely to be truthful if their identities are known. Board decisions identify parties and their witnesses by name and may set out information about them that is relevant and necessary to the determination of the dispute.

At the same time, the Board acknowledges that in some instances mentioning an individual’s personal information during a hearing or in a written decision may affect that person’s life. Privacy concerns arise most frequently when some identifying aspects of a person’s life become public. These include information about an individual’s home address, personal email address, personal phone number, date of birth, financial details, SIN, driver’s licence number, or credit card or passport details. The Board endeavors to

include such information only to the extent that is relevant and necessary for the determination of the dispute.

With advances in technology and the possibility of posting material electronically — including Board decisions — the Board recognizes that in some instances it may be appropriate to limit the concept of openness as it relates to the circumstances of individuals who are parties or witnesses in proceedings before it.

In exceptional circumstances, the Board departs from its open justice principles, and in doing so, the Board may grant requests to maintain the confidentiality of specific evidence and tailor its decisions to accommodate the protection of an individual's privacy (including holding a hearing in private, sealing exhibits containing sensitive medical or personal information or protecting the identities of witnesses or third parties). An individual requesting to have personal information protected from a decision shall make their application to the Board and such application shall be made when they know or ought to know that their personal information could be included in a decision. The Board may grant such requests when they accord with applicable recognized legal principles.

The Board's policy is consistent with the statement of the Heads of Federal Administrative Tribunals Forum (endorsed by the Council of Canadian Administrative Tribunals) and the principles found in the Protocol for the Use of Personal Information in Judgments approved by the Canadian Judicial Council.

## Access to Files

The Board provides parties with access to their files in accordance with the rules of natural justice.

The Board's files are maintained only in paper format. They are available to the parties for consultation at the Board's premises with appropriate notice. However, information protected by solicitor-client privilege is not available for consultation.

The Board considers that the **Access to Information and Protection of Privacy Act**, does not apply to its files. However, the Board provides public access to its closed files in accordance with the open court principle.

Board files contain correspondence between the parties, and are available, after the file is closed, to the public for consultation at the Board's premises with appropriate notice. However, information such as an individual's home address, personal email address, personal phone number, date of birth, financial details, SIN, driver's licence number, or credit card or passport details is not available for consultation. Further, information protected by solicitor-client privilege is not available for consultation.

### **Access to Decisions**

The Board provides public access to its decisions in accordance with the open court principle.

Board decisions are available electronically on its website and it shares its decisions with CanLII – Canadian Legal Information Institute. In an effort to establish a balance between public access to its decisions and privacy concerns, the Board has taken measures to prevent Internet searches of full-text versions of decisions posted on its website. This was accomplished by using the “web robot exclusion protocol,” which is recognized by Internet search engines (e.g., Google and Yahoo). As a result, an Internet search of a person’s name will not yield any information from the full-text versions of decisions posted on the Board’s website.