



**MANITOBA LABOUR BOARD**

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April 28, 2009

**MANITOBA LABOUR BOARD  
INFORMATION BULLETIN NO. 3  
THE CERTIFICATION PROCESS**

This bulletin is intended to provide the labour relations community with information relative to the procedure that will be implemented by the Manitoba Labour Board (the "Board") in processing applications for certification filed subsequent to October 18, 2000.

Effective October 18, 2000, the Board will only be required to conduct representation votes in those certification proceedings where, pursuant to section 40(1)2 of *The Labour Relations Act*, C.C.S.M. c. L10, (the "**Act**") between forty percent (40%) and sixty-five percent (65%) of the employees in a bargaining unit proposed by the applicant appear to be members of that union on the date of application.

Where, pursuant to Section 40(1)1 of the **Act**, sixty-five percent (65%) or more of the employees in the proposed bargaining unit appear to be members of the union on the date of application, the Board will now be required to certify the applicant as the bargaining agent for the employees in said unit.

Upon receipt of an application for certification, the application will be processed by the administrative staff of the Board and will be served on the employer, in most cases, by an officer of the Board. Where that is logistically not possible, other means of service, including priority post or facsimile may be utilized. The material served on the employer will include the normal application documentation, as well as notice of a planning meeting to establish the voting criteria. The hearing date shall be set in keeping with the Board's established practice and procedure and notice of such hearing shall be included with the material provided. Correspondence confirming receipt of the application, together with notice of the planning meeting and the hearing date, will simultaneously be sent to the applicant union and other interested parties.

The *Manitoba Labour Board Rules of Procedure, Regulation 184/87R*, requires the employer to file its return within two (2) days of receipt of the application for certification. It is contemplated that a planning meeting will be tentatively scheduled for the day after the filing of the employer's return. It is further contemplated that, although the legislation provides other than in cases where the Board is satisfied that exceptional circumstances exist, a vote must be held within seven (7) days, most votes will be conducted between the fifth (5th) and seventh (7th) days.

Please be advised that at any time during the course of the proceedings, should the Board satisfy itself that the minimum statutory requirements of Section 40(1)1 of the **Act** have been met, the planning meeting and/or the conduct of the representation vote may be duly cancelled. In instances where the representation vote has been conducted, the ballots may not be counted.

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Where there is a dispute in respect to the appropriateness of the bargaining unit affecting voter eligibility, the disputed ballots will be double-sealed and the sealed ballot box will be returned to the Board's office pending the Board's determination of those issues on the previously scheduled hearing date. Situations where a party or parties purport that they should be treated as falling within the exceptional provisions of the certification process will be dealt with according to the merits of the particular case.

Copies of *The Labour Relations Act*, C.C.S.M. c. L10, and the *Manitoba Labour Board Rules of Procedure, Regulation 184/87 R*, may be obtained from Statutory Publications, 200 Vaughan Street, Winnipeg MB R3C 1T5, Telephone: (204) 945-3101.

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If you require additional information, please contact the Board's office at 945-2089.

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