

# ONTARIO LABOUR RELATIONS BOARD

## NOTICE TO RESPONDING PARTY AND/OR AFFECTED PARTY OF REFERRAL OF GRIEVANCE TO ARBITRATION

*Labour Relations Act, 1995*

**Form C-38**

**Between:**

**Applicant(s)**

- and -

**Responding Party(ies)**

- All forms, Notices, Information Bulletins, the Filing Guide and the Rules of Procedure may be obtained from the Ontario Labour Relations Board's website at (<http://www.olrb.gov.on.ca>) or the Board's offices, 505 University Ave., 2<sup>nd</sup> floor, Toronto, Ontario (Tel. 416-326-7500).
- Periods of time referred to in this Notice, other Board forms and Notices and the Board's Rules of Procedure do not include weekends, statutory holidays or any other day that the Board is closed.

1. The Applicant has initiated a referral of a grievance to the Ontario Labour Relations Board ("the Board") for final and binding determination. A copy of the referral (including the grievance) is enclosed.
2. This notice is being sent to you because you are a Responding Party to the referral or because you have been identified as a person who may be affected by the referral.
3. **A referral of a grievance under the *Labour Relations Act* is a legal proceeding and may affect your legal rights and obligations. You may wish to seek legal advice immediately.**
4. You should carefully read Information Bulletin No. 20 - "Grievance Referrals in the Construction Industry" and the Board's Rules of Procedure, which describe how a Request for Hearing and Notice of Intent to Defend/Participate (Form A-87) and Response/Intervention to Referral of Grievance to Arbitration (Form A-88) must be delivered and filed with the Board, what information must be provided and the time limits that apply.
5. Once a referral is filed with the Board, the Board sends a Confirmation of Filing to all parties with a Board file number and information about the appointment of a Mediator and the hearing date (if any.) If you do not receive a Confirmation of Filing from the Board within seven days after you receive the referral, you may wish to contact the Board.
6. **IF YOU WISH TO DEFEND AGAINST THE GRIEVANCE OR TO PARTICIPATE IN THE PROCEEDING IN ANY WAY:**
  - (a) You must file a Request for Hearing and Notice of Intent to Defend/Participate (**Form A-87** available at [http://www.olrb.gov.on.ca/](http://www.olrb.gov.on.ca) or at the Board's offices) with the Board not later than **5 days** after the date of the

Confirmation of Filing and Notice of Hearing sent to you by the Board.

- (b) In order to file your Request for Hearing and Notice of Intent to Defend/Participate you must pay a filing fee of \$250.00. The Board will not accept or process a Request for Hearing and Notice of Intent to Defend/Participate without payment of the filing fee, and you cannot participate in this proceeding in any manner without payment of the filing fee. The filing fee may be paid on-line if you are e-filing the Request for Hearing and Notice of Intent to Defend/Participate. Otherwise the filing fee may be paid by certified cheque or money order made payable to the "Minister of Finance", by VISA or Mastercard, or by debit card (in person only). The Board will not accept fees paid in cash. Uncertified cheques will not be accepted.
- (c) **Before** filing your Request for Hearing and Notice of Intent to Defend/Participate with the Board, you must deliver a copy of it (including all documents you are filing with it) to each Applicant, Responding Party and Affected Party named in Part A of the Referral. If you are naming any additional Affected Party in your Request for Hearing and Notice of Intent to Defend/Participate, you must provide them with a copy of the Referral (including all documents filed with it), your Request for Hearing and Notice of Intent to Defend/Participate (including all documents you are filing with it) and this notice.
- (d) The Request to Hearing and Notice of Intent to Defend/Participate may be delivered to the other parties in accordance with Rules 6.4 and 30.1 of the Board's Rules of Procedure.
- (e) You may then file your Request for Hearing and Notice of Intent to Defend/Participate with the Board by any method, except e-mail or registered mail.

7. **If you do not file your Request for Hearing and Notice of Intent to Defend/Participate and pay the filing fee within 5 days of the date of the Confirmation of Filing and in the way required by the Board's Rules, the Board may decide the referral without a hearing and without further notice to you. Furthermore, unless the Board orders otherwise, you will be deemed to have accepted all of the facts stated in the referral.**

8. **Section 133(13) of the *Labour Relations Act* further provides that "if an award is made against a party who was given notice of but did not participate in proceedings under this section, the Board may order the party to pay the party in whose favour the award is made, an amount not exceeding the fees paid by the party in whose favour the order is made."**

9. **IF YOU HAVE FILED A REQUEST FOR HEARING AND NOTICE OF INTENT TO DEFEND/PARTICIPATE AND THE REFERRAL PROCEEDS TO HEARING:**

- (a) Your response/intervention (Form A-88 available at <http://www.olrb.gov.on.ca> or at the Board's offices) must be filed with the Board no later than 2 days before the hearing.
- (b) **Before** filing your response/intervention with the Board, you must deliver a copy of it (including all documents you are filing with it) to each Applicant, Responding Party and Affected Party named in Part A of the referral and to each Affected Party named in Part A of a response/intervention filed by another party. If you are naming any additional Affected Party in your response/intervention, you must provide them with a copy of the referral (including all documents filed with it), your response/intervention (including all documents you are filing with it) and this notice.

- (c) Your response/intervention may be delivered to the other parties in accordance with Rules 6.4 and 30.1 of the Board's Rules of Procedure.
- (d) You may **then file your response with the Board** by any method, except e-mail or registered mail.
- (e) If the referral proceeds to hearing before the Board and if you want to participate in that hearing, you will be required to pay a hearing fee of \$625.00 (plus applicable taxes) for each day of hearing. Hearing fees must be paid in advance of each day of hearing by 9.30 a.m. on the morning of the hearing.
- (f) **If you fail to pay the filing fee or hearing fee as required, you may not participate in the case, including the hearing (if one is held), in any way.**

**Dated:**

**Catherine Gilbert**

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The Registrar  
Ontario Labour Relations Board

**NOTE:** All communications should be addressed to:  
The Registrar  
Ontario Labour Relations Board  
505 University Avenue, 2nd Floor  
Toronto, Ontario M5G 2P1  
Tel (416) 326-7500

## IMPORTANT NOTES

The Board's forms, Notices, Information Bulletins, Rules of Procedure and Filing Guide may be obtained from its website <http://www.olrb.gov.on.ca> or by calling 416-326-7500 or toll-free at 1-877-339-3335.

### FRENCH OR ENGLISH

Vous avez le droit de communiquer et recevoir des services en français et en anglais. La Commission n'offre pas de services d'interprétation dans les langues autres que le français et l'anglais.

You have the right to communicate and receive services in either English or French. The Board does not provide translation services in languages other than English or French.

### CHANGE OF CONTACT INFORMATION

Notify the Board immediately of any change in your contact information. If you fail to do so, correspondence sent to your last known address (including email) may be deemed to be reasonable notice to you and the case may proceed in your absence.

### ACCESSIBILITY AND ACCOMMODATION

The Board is committed to providing an inclusive and accessible environment in which all members of the public have equitable access to our services. We will aim to meet our obligations under the *Accessibility for Ontarians with Disabilities Act* in a timely manner. Please advise the Board if you require any accommodation to meet your individual needs. The Board's Accessibility Policy can be found on its website.

### COLLECTION AND DISCLOSURE OF INFORMATION AND DOCUMENTS

Any relevant information that you provide to the Board must in the normal course be provided to the other parties to the proceeding. Personal information collected on this form and in written or oral submissions may be used and disclosed for the proper administration of the Board's governing legislation and case processing. In addition, the *Tribunal Adjudicative Records Act, 2019* requires that the Board make adjudicative records (which include applications filed and a listing of such applications) available to the public. The Board has the power to make part or all of an adjudicative record confidential. The *Freedom of Information and Protection of Privacy Act* may also address the treatment of personal information. More information is available on the Board's website [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca). If you have any questions concerning the collection of information or disclosure of adjudicative records, contact the Solicitors' Office at the number listed above or in writing to the OLRB, 505 University Ave., 2nd floor, Toronto, ON M5G 2P1.

### E-FILING AND E-MAIL

The Rules of Procedure and Filing Guide set out the permitted methods of filing. **In the event of emergencies or other circumstances, the Board may post a Notice to Community on its website, which will prevail over the Rules of Procedure and Filing Guide. You should check the Board's website prior to filing.** Note that the e-filing system is not encrypted. Contact the Client Services Coordinator at the numbers listed above if you have questions regarding e-filing or other filing methods. If you provide an e-mail address with your contact information, the Board will in most cases communicate with you by e-mail from an out-going only generic account. Incoming emails are not permitted.

### HEARINGS AND DECISIONS

Hearings are open to the public unless the Board decides that matters involving public security may be disclosed or if it believes that disclosure of financial or personal matters would be damaging to any of the parties. Hearings are not recorded and no transcripts are produced.

The Board issues written decisions, which may include the name and personal information about persons appearing before it. Decisions are available to the public from a variety of sources including the Ontario Workplace Tribunals Library and [www.canlii.org](http://www.canlii.org). Some summaries and decisions may be found on the Board's website.