

## ONTARIO LABOUR RELATIONS BOARD INFORMATION BULLETIN NO. 18

### Religious Exemption Applications

This Information Bulletin describes how the Labour Relations Board handles applications by employees who want an exemption from the union security provisions of a collective agreement because of their religious convictions or beliefs. Applications can be made under the *Labour Relations Act, 1995*, the *Colleges Collective Bargaining Act, 2008* or the *Fire Protection and Prevention Act, 1997*.

#### **FILLING OUT AN APPLICATION**

Applications for a religious exemption must be made on Form A-35. The application must include information about when the employee began working at the workplace, the date the collective agreement was entered into and its term of operation, what the employee's religious conviction or belief is, and the facts that are being relied on to support the exemption request.

Employees who apply for an exemption under the LRA or the FPPA are not eligible unless: (1) they were employed at the workplace before the union security provisions were negotiated, and (2) the application is made during the term of the first collective agreement in which those provisions are included.

#### **FILING THE APPLICATION**

Before filing the application with the Board, the employee must deliver an Application Package to the union, the employer, and any other person who the employee identifies as potentially affected by the application.

The Application Package consists of: 1) a copy of the completed application and 2) a Notice of the Application (Form C-17). The employee must fill in her or his name, the union's name, and the employer's name on page 1 and the date on page 3 of the Notice before making the delivery.

Other material, including blank Response forms and Information Bulletins are available from the Board (505 University Avenue, Toronto, Ontario, M5G 2P1 - Tel. no. [416] 326-7500) or downloaded from the Board's website at [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

The packages may be delivered in accordance with Rule 6.4 of the Board's Rules of Procedure.

No later than five days (not including weekends, statutory holidays or any other day the Board is closed) after delivering the Application Package to the union, employer and other affected parties, the employee must file one copy of the application with the Board. The application may be filed in any way other than by facsimile transmission, e-mail or registered mail. If the application is not filed with the Board within five days after delivering the package to the union, employer and other affected parties, the matter will be terminated.

### **FILING A RESPONSE**

The union, employer and any other party who wants to participate in the case have ten days (not including weekends, statutory holidays or any other day the Board is closed) after receiving the Application Package to respond. They must first deliver a copy of the response to the employee and each other party in accordance with Rule 6.4 of the Board's Rules of Procedure. They must then file one copy of their response with the Board, using any method other than facsimile transmission, e-mail or registered mail.

### **MEDIATION**

Soon after the response is filed, one of the Board's Mediators will contact the parties and try to help them reach an agreement that will settle the application. The Mediator may meet with the employee, union, and employer separately, or at the same time.

Mediators do not decide the case. They do not represent any of the parties in the case, nor do they act as advisors to any of the parties in the case. The role of the Mediator is to help the parties reach a settlement of the application. In order to encourage frank and open discussion between the parties and the Mediator and increase the likelihood of settlement, Mediators do not tell the Vice-Chair or panel who will be hearing the case what was said at the meeting or what they think about the merits of the parties' positions. Also, Mediators will not submit documents to the Vice-Chair or panel -- if parties want documents to be considered by the Vice-Chair or panel, they must submit them.

During the settlement discussions, the Mediator may explain the Board's case law. These comments are made to help parties realistically assess their chances of success and evaluate the settlement proposals, and are not to be taken as legal advice.

## **THE HEARING**

If no settlement is reached, a hearing will be held with a Vice-Chair or panel. Each party is responsible for bringing to the hearing witnesses they want to testify on their behalf and documents that support their claim, and for presenting their own case. Parties are entitled but not required to be represented by a lawyer or other representative. The Board does not provide lawyers or representatives for people.

In order to grant an exemption, the Board has held that it must be satisfied that the employee's belief or conviction is a religious one, that it is sincerely held, and that it is the cause of the objection to belonging to a union or paying union dues (see for example *University of Ottawa*, [1976] OLRB Rep. Aug. 422).

Employees who are exempted from paying union dues must pay an equivalent amount to a charity mutually agreed upon by the employee and the union. If they cannot agree on a charity, the Board will designate one.

The Board does not charge any service fees for the hearing. However, other costs associated with the hearing (for example, witness attendance fees or the cost of photocopying documents that you want the Board to read) are the responsibility of each party. It is not the Board's practice to have the "loser" pay the "winner's" costs.

The hearing is a legal proceeding that will determine the parties' legal rights. If a party does not attend the hearing, it will go ahead anyway and their rights will be determined in their absence.

Board hearings are open to the public unless the panel 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 over the internet at [www.canlii.org](http://www.canlii.org), a free legal information data base. Some summaries and decisions may be found on the Board's website under *Highlights* and Recent Decisions of Interest at [www.olrb.gov.on.ca](http://www.olrb.gov.on.ca).

## **IMPORTANT NOTE**

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.