

POISONING THE WELL

What the record tells us about employer intimidation during union certification drives in Alberta



Alberta
Federation
of Labour



Phone: 780.483.3021

Email: afl@afl.org

COPE 458

Executive Summary

Many assume that deciding on a union through a balloted vote mimics the democratic process Albertans are familiar with when it comes to electing politicians at the provincial or federal level. On the surface this is true—Albertans have a right to choose whether they want to join a union or not, a right guaranteed by the constitution. However, all too often this right means little in the face of employer pressure tactics and intimidation during a certification drive. While our labour laws are supposed to protect and guarantee the right to join a union, in practice the existing laws in Alberta often fall short.

In this report, we examine the data in Alberta for unfair labour practices during certification or organizing drives from 2001 to the present. Unfair labour practices during certification drives relate to threats, intimidation, coercion, and other behavior prohibited by the Alberta Labour Relations Code. During this time period, we found thirty-four unfair labour practice cases related to certification drives brought to the Alberta Labour Relations Board. Twenty-eight of these complaints were brought against employers and 6 were brought against unions. Although many of the cases have partial judgements only one against a union was fully upheld and 17 against employers were fully upheld. This report briefly discusses eight of these cases to better understand the nature of complaints brought before the Board, the decisions made by the Board, the remedies applied, and the impact of these decisions on the workplace.

Our research and analysis found no evidence of union bullying, but did find that under the current system employers were given too many opportunities to abuse their power over employees to intimidate workers from exercising their constitutional right to join a union. Often employer misconduct revolved around the termination or threat of termination of workers for their involvement in or support for the union, or the inappropriate use of employer communication to intimidate workers. We also found that while the Alberta Labour Relations Board was often able to identify unfair labour practices and rule employers in violation, they were unable to meaningfully protect the rights of workers to freely make a choice of whether to unionize or not. In other words, their remedial power was weak or non-existent.

Ultimately, our findings suggest that any discussion of intimidation at the workplace needs to be grounded in an understanding of who holds the power in the workplace. The union has little, if any, power or influence over the workers it seeks to organize. The employer enjoys a significant power advantage over its workers and is incentivized to use that power to prevent unionization of its employees. Added to this advantage is the fact that Alberta's labour laws, not updated since the 1980s, fail to deter employers from using their power over employees in ways that are in violation of the Code. Alberta workers need laws that protect them, and their constitutional right to choose a union. Until they do, the rights guaranteed to them will ring hollow.

Introduction

Unfair labour practices (UFLP) that occur during certification drives are of key importance, as they have the potential to coerce or unduly influence workers from exercising their constitutionally protected right to join a union. The decision to unionize is entirely up to the individual workers—it has nothing to do with the wishes of the business or its managers. Nor does it have anything to do with the economics of the company; it is simply the right of Canadians to join unions should they so choose.

The difference is the immense power of the employer over workers, especially their unique powers to terminate workers, and their almost uninhibited access to their workplace.

This is important given the immense power imbalance between ordinary workers and their employer. During a certification drive, a union has no authority or power over the workplace. They have rules mandated by the Alberta Labour Relations Code guiding the extent of their persuasion efforts and their access to the workplace. Employers also have Code-mandated rules for their conduct and the extent to which they can exercise their free speech to influence their employees' decisions. The difference is the immense power of the employer over workers, especially their unique powers to terminate workers, and their almost uninhibited access to their workplace. The power to hire and fire is the most relevant aspect of this power imbalance; as many cases below will illustrate, the ability of the employer to terminate employees or even the threat of terminations often makes workers afraid to exercise their rights. Even with Board restrictions to prevent the

immense power of the employer from being used to prevent a certification drive, the remedies available to the Board are insufficient to redress the balance and are often applied far too late.

What is an Unfair Labour Practice during Certification Drive?

Unfair labour practices (UFLP) during certification drives are governed under s. 148 & s. 149 (prohibited practices by employer) and s.151 & s.152 (prohibited practices by trade union) of the provincial Labour Code. While these sections relate to all stages of labour relations, some subsections are of more importance when considering violations during a certification drive.

Employer-prohibited practices include: interference with the administration or formation of a trade union; employer speech that uses coercion, intimidation, threats, promises or undue influence; and discrimination regarding a person's affiliation with a trade union. These sections attempt to ensure that employer actions do not discriminate against or terminate employees due to any union affiliation or sympathies, and ensure that employer speech does not unfairly influence workers.

Trade union prohibited practices under s.151 & s.152 provide similar protections to ensure that union speech does not utilize intimidation, coercion or threats to unduly influence workers.

Unfair Labour Practices in Alberta

While we often hear allegations of “union thugs” or “union intimidation techniques,” these allegations are completely fabricated. From our analysis of Alberta Labour Relations Board (from hereafter referred to as the Board) decisions from 2001 to the present, there is no evidence of the

use of violence or physical intimidation by union organizers during a certification. Further, there are very few cases of union UFLP during certification drives. To be precise, only six accusations of union unfair labour practices were brought before the Board—many of the complaints within these cases were dismissed by the Board. When unfair labour practices were alleged against a union organizing a workplace, the offences were small scale and easily remedied by the Board. We found absolutely no evidence of an unfair labour practice committed by a union that unduly influenced workers or forced workers to join a union that they did not seek to join.

What the record clearly shows is that it is employers, not unions that are engaged in unfair labour practices.

Conversely, what we did find was ample evidence of employer unfair labour practices, which in many cases had the impact of crushing a certification drive. Since 2001 we found twenty-eight separate cases of employer UFLP during a certification brought before the Board. What the record clearly shows is that it is employers, not unions that are engaged in unfair labour practices.

The following is a brief cross-section of cases detailing UFLPs during certification drives.

Employer Unfair Labour Practices

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, Local Union No. 488 (UA 488) and Icom Refrigeration Corporation (2002)

From the time a union files a certification application to the representative vote, the potential for employer intimidation and coercion increases substantially. This is a particularly serious problem for Alberta, which lacks statutory mandated timelines for representative votes—unlike other provinces that must hold the vote within 7 to 10 days. While an employer is entitled to free speech, they are not entitled to use their power over employees to threaten or intimidate workers contemplating their choice.

Lastly, the employer threatened to close the workplace should it become unionized, and that he would open a new company that would only hire employees that indicated that they would vote against the union.

In this 2002 case concerning an UFLP brought by UA 488, an employer took it upon himself to use the time in between the union application for certification and the representative vote to sow doubt about the union and deliver threats to employees. According to testimony by workers, the employer began meeting with employees, both in individual meetings and in small groups, with the intent to find who had initiated the union certification. The employer also demanded that employees reveal who had attended a union meeting and how each employee would vote. Lastly, the employer threatened to close the workplace should it become unionized, and that he would open a new company that would only hire employees that indicated that they would vote against the union.

When the representative vote was held, the union lost by a single vote. The union believed that the employer's blatant UFLP had interfered with employees' right to choose a union freely. The Board found the employer was so vocal, that every employee would have had difficulty freely expressing their preference. Accordingly, the Board found the employer in contravention of the Code and ordered a new representative vote. However, by the time this remedy was applied, the workforce of the workplace had changed substantially.

This case is notable for the lack of subtlety utilized by the employer in his attempts to use UFLP to influence workers towards voting non-union. The testimony provided by the Board clearly show the employer using his influence and power over their employees to bully and cajole them from expressing their rights freely. Despite the Board finding of an UFLP, this case is a profound example of the lack of meaningful penalties applied to willing lawbreakers. Despite the blatant disregard for the Code's provisions and the rights of workers, the employer achieved his objective of keeping the workplace free of collective bargaining.

International Brotherhood of Electrical Workers 424 (IBEW 424) and Ergo Electric (2003)

The Alberta Labour Relations Code prohibits employers from discriminating against members or applicants of a trade union. During a certification drive, employer discrimination can often mean the firing or threat of firing union supporters or sympathizers. Terminating union sympathizers removes them from the bargaining unit (they can't vote) and sends a strong message to other employees not to join the union.

In a 2003 ruling, the Alberta Labour Relations Board dealt with a case involving Local IBEW 424, Robert Drader, Ennish Mohler, Jordan Rose, and Ergo Electric Inc. In this case, the three workers were allegedly fired for their union sympathies.

Robert Drader was a member of IBEW 424 and began working at the employer's job site. After several workers indicated an interest of the union, he organized a meeting off company property and after work hours. The employer was on record with at least two employees as being anti-union, and even told Drader not to discuss the union once he found out he was a union member. Two days later the union filed a certification application with the Board. In response to this application (approximately two hours later), the employer terminated Drader. While the employer insisted Drader was a temporary worker, the Board rejected that premise given the ongoing work at the jobsite and the unconvincing testimony of the employer. The Board found no evidence of anti-

This is a clear example of how employers can use an UFLP, be found in contravention of the Code and achieve their business objective of avoiding a union.

union animus in the firing of two other workers surrounding the representative vote. However, testimony from other workers indicated the employer had threatened to close the shop if it became unionized and to fire union sympathizers.

While the Board awarded damages to Drader, they were unable to provide any remedy to the union whose efforts to organize the workplace were poisoned by the employer's UFLP or to the other workers at the workplace whose rights to freely choose to unionize were trampled.

In this case, anti-union animus in contravention of the Code was found, but no real remedy to address this problem was made. An employer was found to be in direct contravention of the Code, but

the Board was unwilling to provide another representation vote or even a posting of a notice in the workplace that Drader had been unjustly fired. Further, there was no remedy to the belligerent posturing of the employer that robbed workers of a meaningful opportunity to make their choice free of intimidation. This is a clear example of how employers can use an UFLP, be found in contravention of the Code and achieve their business objective of avoiding a union while suffering no consequences. No such consideration was made to ensure workers had a fair chance at choosing a union.

Health Sciences Association of Alberta (HSAA) and Guardian Ambulance Limited (2006)

During a certification drive, employers are permitted regular free speech. However, this free speech cannot be used to intimidate, coerce or otherwise threaten their employees. While many employers often toe a very careful line when voicing their opinions concerning a union, others are not so careful.

The following letter was sent to employees of Guardian Ambulance Ltd. a day before an introductory meeting workers had organized with the Health Sciences Association of Alberta. The text of the letter follows.

Dear Employee:

As you contemplate the feasibility of a union please consider the following:

A union will make many promises that may raise your expectations but they cannot guarantee them. Those promises only an employer can keep.

Our family does not believe in the merits of a union nor do our religious beliefs support its methods and ideologies. We believe it creates a barrier between employees and employers and promotes mediocrity. We strongly feel that it is our responsibility to look out for our own employees and it is our duty to recognize your value, not the unions.

Ask yourself honestly, have I been subject to unjust treatment? Am I really unappreciated? Are the working conditions ridiculous? Did I not willingly sign an agreement that clearly stated the conditions of employment? Have I not seen annual raises? Have there not been opportunities for advancement? Consider these points carefully when you hear the arguments for a union.

As most of you are aware we have been reviewing salaries as we do in January each year. Adjustments to your salary take place as of December 26, 2005.

Please make your individual opinion clear to us and your peers this week. Our relationships, salary flexibility, and the future growth of the company are placed in jeopardy with the increased costs that are associated with a union. We will not willingly sign an agreement with a third-party; our commitments are with each one of you individually.

Sincerely and heartfelt,

(Signed)

In this case, the Board found that certain sections of the letter violated s. 148. The offensive sections were the last paragraph that threatens that the employer will never willingly deal with a union

(implying that the employer would not bargain in good faith) and the invitation to “make your individual opinion clear to us and your peers”. This section was found in violation as its tone indicated that employees should identify themselves as union supporters or convince their colleagues against the union.

The remedy granted by the Board for these violations was to order the employer to cease and desist interfering in the union’s representational activities, post notices to employees in a form provided by the Board, advising them of this finding and attaching a copy of the Board’s decision. The Board ordered that these notices be posted in conspicuous places at each of the employer’s locations for a period of 21 days, and not obscured or defaced.

In this context, the remedy against this UFLP was wholly insufficient relative to the damage done by the employer’s contravention of the Code. This letter in no uncertain terms made it clear to employees that unionization was unwise and ultimately futile. While the employer is allowed to voice its opinion, it cannot use such blatant pressure tactics to influence workers. Further, despite the board finding only one paragraph problematic, the entirety of the letter is a barely-veiled threat against unionization and a statement of the employer’s refusal to recognize the rights of workers should they choose a union. Particularly troubling is the statement of religious belief regarding unionization. The religious beliefs of an employer are irrelevant to the employees’ constitutionally protected choice to join a union. In this case, the employer committed an egregious UFLP that undermined the ability of workers to choose a union and emerged entirely unscathed—despite a declaration from the Board of an UFLP.

IBEW 424 and Ergo Electric (2007)

The Board noted that the employer was combative and expressed clear contempt for the Union and its representatives.

An employer found guilty of an UFLP should ideally be deterred by the remedy administered by the Board to avoid the offensive behavior in the future. However, if the remedies are not severe or meaningful, this deterrence will not work and illegal behaviour may be repeated.

would not be honoured if the shop went union. The Board noted that the employer was combative and expressed clear contempt for the Union and its representatives. Perhaps most damningly, the

However, there was no consideration of the fact that this very same employer was found guilty of the exact same UFLP a few years earlier.

In 2006, IBEW attempted another union certification drive of Ergo Electric (which was still run by the same owner who was found guilty of blatant UFLP in 2003.) Again, the employer was accused of firing workers for union affiliation, threatening to fire union sympathizers and even threatened an apprentice that their hours

Board also noted that the employer’s key witness was clearly coerced to deliver evidence that supported the employer. Ultimately, the Board again found the employer in violation of the Code and ordered a new representation vote.

The Board decision to find the employer in contravention of the Code was a relatively simple manner, given the blatant disregard for the Code exhibited by the employer. However, there was no consideration of the fact that this very same employer was found guilty of the exact same UFLP a few years earlier. The fact is that workers at this company cannot make the choice to unionize

without intimidation from this employer and the Board's remedies make no effort to restore that choice to these workers.

United Food and Commercial Workers Canada Union, Local No. 401 (UFCW 401), Shannondoe Best, Melanie Carlson, Julie Leeper, Nanette Nyitrai, Susan O'Brien, Susan Rukande and Noralta Lodge Ltd. (2012)

The Board has a process for determining whether an employee was fired due to anti-union animus, that often provides damages or reinstatement for a wrongly fired worker. However, during a certification drive this remedy does little to address the outsized impact a fired worker has upon the certification drive for all other workers.

In a 2012 case regarding a union drive by UFCW 401 of Noralta Lodge Ltd., the union alleged that six workers were dismissed due to their support of the Union's certification drive. One of the workers was the initiator of the union's involvement in the workplace. The employer told the workers they were being dismissed due to a lack of work and performance issues, which the employer also stated as justification to the Board. However, this justification was suspect due to the employer bringing on new employees both before the terminations, the day of the terminations and again a few weeks after the employees were terminated. Further, the justifications provided by the employer about "attitude problems" and work performance of the terminated workers were at odds

The board found that the decision to terminate these workers during a very well-known union drive was intended to "cast a chill" upon the union certification drive.

the company's own written reports before the union drive. The Union also provided evidence that employers knew exactly which workers were union sympathizers through unsolicited email correspondence with a worker at the site.

The Board found that the decision to terminate these workers during a very well-known union drive was intended to "cast a chill" upon the union certification drive. The decision to target two employees that had exceptional records who just so happened to be the Union's key supporters was a deliberate UFLP.

In light of the grievous nature of this UFLP, the Board issued a number of remedies, including: a cease and desist order, damages in lieu of reinstatement, reinstatement, a copy of the Board's directive in the workplace, and greater access to the workplace for the Union.

In this case, the Board was able to impose meaningful remedies for those who lost their jobs due to employer UFLP. That the employer faced penalties for its actions is certainly a good thing, but ultimately the employer was largely successful in achieving its overall objectives of using intimidation to coerce the majority of workers to vote against the union. The employer may have seen these penalties as an acceptable cost of ensuring its workers did not have a meaningful choice to become unionized.

Union Unfair Labour Practices

Alberta Union of Provincial Employees (AUPE) and Bosco Homes (2001)

The Board has the authority to refuse or revoke a certification should it believe a union's activities are extreme. However, it is not uncommon for this remedy to be the desired outcome for an employer, regardless of the extremity of the complaint they bring to the Board.

In AUPE and Bosco Homes, the employer filed four separate UFLP against the union. The employer's first three complaints were related to allegation of union intimidation and coercion, but the Board was quick to dismiss these complaints. In the Board's judgement, the union's activity fell well within the acceptable limits of political speech. Moreover, protections of free speech allow employers ample opportunities to counter this type of political speech.

The fourth complaint was more complicated, as the employer alleged that Union activities ensuring that a high number of casual workers were counted in the bargaining unit while the vote was being held constituted an UFLP. Not coincidentally, these casual workers were more supportive of the union's certification drive. The employer believed this amounted to gerrymandering the voter list, and argued that it was grounds for a dismissal of the certification—despite the decision of the workers to certify with the union. The Board rejected the employer's argument, that the Union's activities were again well within the confines of the legislation. Moreover, the Board stated that its power to refuse a certification should be used sparingly and only in the face of extreme circumstances. The union's activities fell well short of this test.

What makes this case interesting is that the Board makes a point of warning the union, "As ye sow, so shall ye reap" in their decision. The Board was of the opinion that the union's activity was dangerously close to comprising an UFLP, and that should the union continue such behavior, the Board would be "hard pressed to take any different view of employer conduct." Such a stern warning is curious, given that in many other cases (including ones above), employers conduct themselves in similar matter—but no such warning is issued.

Trophy Foods Inc. and United Food and Commercial Workers Union 401 (2003)

The Board dismissed this remedy as the impact of the offence was so small, and the impact of three workers was not enough to sway the certification vote.

While the Code restricts the use of threats, coercion and threats, it is very permissive of political speech. After all, a unionizing drive is a very political affair that touches upon both a worker's livelihood and the company's practices. Unions and collective bargaining are also touchy subjects, particularly in Alberta's fiercely anti-union political culture. Unsurprisingly, the use of political speech during a union drive can make workplace relationships tense, as individual workers weigh their options and debate the merits of unionization. This tension is a regular part of the political process and permitted by the Code.

In Trophy Foods Inc. and UFCW 401 the employer sought a de-certification of the union as a remedy based on witness testimony that the Union was circulating the certification petition during working hours to three employees. The Board dismissed this remedy as the impact of the offence was so small, and the impact of three

workers was not enough to sway the certification vote. The Board also stated that while the union was in violation of s. 151, there was little evidence beyond hearsay to suggest that this was a concerted or malevolent union tactic to sway the employees in favour of the union. The employer also attempted to have the union’s certification application dismissed due to the use of intimidation tactics, and brought in witnesses describing the tense nature of the workplace due to the unionization drive. However, the testimony provided was vague (names could not be provided of offenders or whether they were union representatives) and failed to establish a pattern of inappropriate behavior by the union. The Board found that while the workplace appeared tense due to the union organizing drive, this did not amount to a violation of the Code.

In this case, the Board was able to deliver an appropriate remedy to the union’s single UFLP while dismissing the more frivolous allegations. Remedies should be proportional to the violation, and the union’s UFLP was limited in its impact on the choice of workers to unionize. Further, the Board was also able to contextualize much of the testimony it received in the case to understand much of the employer’s grievances as a normal part of the political process.

CBI Home Health Ltd. and Alberta Union of Provincial Employees (2015)

Both employers and unions walk a fine line during union certification drives regarding the use of persuasion and free speech. Both parties are permitted speech that does not unduly intimidate, coerce or threaten workers. Union organizers have a daunting task when attempting to organize a workplace, as they often have little information beyond a couple of sympathizers and little access to the workforce. Organizers are also restricted from organizing during working hours, necessitating offsite after work meetings.

The Board noted that all the witnesses claimed the union organizers were quite pleasant and honoured any request to cease conduct.

In 2015, CBI Home Health Ltd. alleged that AUPE organizers visited seven employees at their homes (out of a potential bargaining unit of 400) to convince them to vote for a union. The employer alleged that this conduct was intimidating and threatening, necessitating a wholesale dismissal of the union’s certification application. The Board found the conduct did not intimidate or influence the workers, and dismissed the complaint. The Board noted that all the witnesses claimed the union organizers were quite pleasant and honoured any request to cease conduct. The Board did state that had the union organizers used intimidation, coercion or threats their decision would have triggered a violation of the Code. However, given the appropriate

conduct of union organizers this fell into the realm of acceptable free speech.

While we often hear complaints in the media about “union thugs” visiting homes to intimidate workers, the truth is often far more benign and uninteresting. Union organizers are not unlike candidates for political office, as they recognize that success often lies in personal contact with the electorate at the doorstep. The employer’s allegation that this relatively common form of political persuasion is grounds for dismissal of the certification application highlights the challenging environment faced by union organizers—and the ultimate reason they refrain from engaging in UFLP. For a union organizer, an UFLP will result in the premature death of an organizing drive. The same kind of consequence cannot be said to be applied to employers.

Conclusions and Discussion

The above cases are a cross-section of the UFLP brought before the Alberta Labour Relations Board since 2001. However, there are likely far more examples of UFLP across workplaces that are either not reported or not brought to the Board's attention, especially given the cost to unions to pursue such cases and the lack of meaningful remedies. However, there are some inferences that can be made from the data we have collected and the cases above.

Union thugs is a myth where employers have real power

Our research draws attention to the fundamental power imbalance between employers and workers. While stereotypes about “union thugs” endure, the reality is that unions have no power over the workers they seek to organize. To be successful, an organizer must be persuasive and gain the willing consent of workers, they have other no other means of convincing workers to join a union. A union organizing drive might raise unpleasant questions and tension as workers discuss the merits of unionization, but this is a natural part of a process that touches so closely upon the livelihoods of workers. By itself, it does not constitute intimidation or coercion, but merely persuasion.

The employer, by contrast, has considerable power and authority over the worker. Given this power imbalance, the impact of UFLP by employers is of great impact to the fair proceedings of a union drive. A letter from an employer with carefully selected language (as in HSAA and Guardian Ambulances) given to all employees to subtly threaten workers who support the union has a profound impact on the ability of workers to exercise their rights free of undue influence. The threat of a plant closure or layoffs, real or even strongly implied, is often enough to unduly influence a worker's decision. That our labour laws do nothing to meaningfully address this imbalance while workers are exercising their fundamental rights, exacerbates this power balance and robs workers of their constitutional rights.

Our current labour laws do not protect a workers' right to choose a union

The inability of our labour laws to protect workers during a certification drive is of integral importance, given that the most common UFLP brought to the Board is termination due to anti-union animus. For working Albertans, a job is how you keep food on the table and a roof over your head. Losing that job can be a catastrophic event, which many workers will go to great lengths to avoid. The power of an employer to fire a worker, at any time, is the source of the power imbalance in the employment relationship. An employer firing an employee for anti-union animus should be understood as an attack on that worker's fundamental constitutional rights. The employer is using its power imbalance to restrict the rights of workers to freely make a choice, a choice that is theirs alone.

Further, the impact of that firing is not just an attack on the terminated worker but a threat to all other workers. It sends the message: if you support the union you will be fired. The Board often refers to this effect as a “chill”, but it is in effect a poisoning of the well. The lack of meaningful remedies to this gross abuse of power ensures that bad employers will continue to thwart the rights of workers. The evidence from Board rulings shows that if anyone is being thuggish, it's employers.

Employers often request the Board to dismiss all certification results

In cases of UFLP complaints against unions, it is notable that employers often seek to overturn the results of representation votes by seeking the refusal or dismissal of the entire certification result. The Board correctly understands this remedy to be reserved for extreme cases, where the extent of the UFLP is similarly extreme. From the cases above, this remedy is disproportionate to the scale of violations employers allege unions make during certification drives. The threat of a dismissal of a certification application is a sufficient deterrent to union organizers, as it represents a very real and tangible deterrent.

Unions often have modest requests for the Board

Conversely, the remedies sought by unions and granted by the Board were often far more modest: reinstatement of terminated employees, damages, a new representative vote, cease and desist orders, greater access to the workplace, and declarations of violations. While these remedies are of significance, they do little to redress the key problem that UFLP during certifications represent, they do nothing to ensure that the rights of workers to join a union free of intimidation or interference from the employer. By the time the Board makes their decision and declares a remedy, the employer has already achieved their objective of defeating the union. Whatever damages they ultimately pay are worth the cost of ensuring employees do not have a chance to fairly vote. This is especially true when repeat offenders continue to be found in violation of the Code (such as Ergo Electric). Workers see the obvious conclusion to this process—our laws are powerless to protect our constitutional rights.

How does Bill 17 address the issue of employer intimidation?

Bill 17: Fair and Family-Friendly Workplaces Act, is a positive step in ensuring the rights of Albertans at work are respected in the future. New remedial powers of the Board, properly utilized, will go far to ensuring that employers that use unfair labour practices to intimidate workers will face real consequences, including certification. New rules dictating strict timelines for certification applications will limit the potential for employer mischief and intimidation. The new union certification process borrows from the Manitoba Labour Code, which uses a hybrid of card check and ballot votes. Under the Manitoba model, a union that demonstrates it has 65 per cent support from the bargaining unit will be certified without a vote. Should the union demonstrate lower levels of support but still higher than 40 per cent, the decision will be continue to be resolved by a vote. This model will better protect workers from employer intimidation during certification drives, although not as effectively as a more straight-forward card check system. These changes are desperately needed to make the rights of Albertans comparable to the rights enjoyed by other Canadians, and to ensure Alberta workers have meaningful access to the constitutionally protected right to join a union.

Unifor 445/COPE 458