



**SECTION 37**  
**DUTY OF FAIR REPRESENTATION COMPLAINT**  
***CANADA LABOUR CODE***

**Complainant**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_ FAX: \_\_\_\_\_

EMPLOYMENT • DATE OF HIRE: \_\_\_\_\_

• DATE OF TERMINATION (if applicable): \_\_\_\_\_

NAME OF REPRESENTATIVE OR COUNSEL (if applicable): \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_ FAX: \_\_\_\_\_

**Bargaining Agent**

NAME OF UNION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_ FAX: \_\_\_\_\_

NAME AND POSITION OF UNION REPRESENTATIVE: \_\_\_\_\_

\_\_\_\_\_

**Employer**

NAME OF COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_ FAX: \_\_\_\_\_

NAME AND POSITION OF COMPANY REPRESENTATIVE: \_\_\_\_\_

\_\_\_\_\_

## I–Before You Start

This form is intended to assist you in providing the type of information required for making a section 37 duty of fair representation complaint. Please refer to the Board’s Information Circular No. 11-05 and its decision in *Virginia McRaeJackson et al.*, [2004] CIRB no. 290, posted at [http://www.cirb-ccri.gc.ca/decisions/index\\_eng.asp](http://www.cirb-ccri.gc.ca/decisions/index_eng.asp), which will help you to understand the Board’s process and procedures. These reference materials may also be obtained from the Board’s regional offices.

Section 37 of the *Code* prohibits a trade union, or any one of its representatives, from acting in a manner that is arbitrary, discriminatory or in bad faith with respect to your rights under the collective agreement. In most cases, a trade union has the right to decide whether to take a grievance to arbitration or to settle a grievance, even if you are not in agreement. However, the union must not make this decision in an **arbitrary, discriminatory or bad faith manner**.

The Board will examine your complaint having regard to the *Code* and the Board’s extensive case law on section 37. It is your responsibility to provide the Board with all of the information that is necessary for it to decide your complaint. The information provided in your complaint must be sufficient to allow the Board to reasonably conclude that there has been an apparent violation by the union of its duty of fair representation. In other words, the Board will ask whether, even if it accepts all of your allegations as being true, the facts indicate that the union may have breached its duty. The Board may dismiss a complaint if this initial threshold is not met.

As you fill out this form, you may use additional pages if necessary and **PLEASE PRINT CLEARLY**.



### III–Duty of Fair Representation

Please describe, in the applicable category below, why you believe that your union acted in a manner that was arbitrary, discriminatory or in bad faith with respect to your rights under the collective agreement.

#### **A–Arbitrary Conduct**

Arbitrary conduct by a trade union generally means that a union has failed to investigate a grievance or issue or has handled the case in a superficial manner. It does not mean, however, that a union cannot make mistakes or that it must always be correct in every assessment it makes.

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#### **B–Discriminatory Conduct**

A trade union must not discriminate against an employee on a ground such as age, race, religion, sex or medical condition. It also must not treat individuals or groups of employees differently based on unreasonable or irrational grounds. However, not every instance of differential treatment is discriminatory.

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