

Why Unions Lose Certification Votes

No Sure Thing

In most provinces, employees can choose to be represented by a union through a certification process in which the employees' wishes are ultimately determined by a secret ballot vote. The certification process does not reach the voting stage unless a considerable portion (exact requirements vary from province to province) of employees are already union members or have indicated support for the union by other means such as petitions or signing application cards.

With a majority of employees seemingly on side before the vote, one would expect that certification votes would be a sure thing for the union. Indeed, in the past, a show of support for the union through membership or cards was deemed to be sufficient to decide unionization and no secret ballot vote was held. That is still the case in some provinces like Saskatchewan.

In recent times, the results of certification votes show that an initial or proxy show of support for the union does not necessarily reflect a desire for union certification, and the unions do, in fact, lose these votes frequently.

The latest period for which the Alberta Labour Relations Board has issued statistics, 1995-1997, shows 160 certification applications in construction and construction-related bargaining units. Of those, the applicant unions were successful in only 52 cases.

Internal communications and newsletters from the Building Trade Unions reveal that they are concerned about the difficulties they are having with organizing attempts and the frustrations associated with employees, who are often card-carrying union members, voting against certification.

Construction was at one time dominated by the Building Trade Unions. As the unions try to recapture their lost market share, why are they consistently losing certification votes?

Why Employees Vote Against Union Representation

Certification drives are unique to each company and group of employees, but there are some common factors why construction employees vote against union representation in certification votes:

1. Employer Commitment to Better Human Resources Practices

A certification drive can be described as a contest to win the hearts and minds of employees. Without question, many construction employers have re-evaluated how they view the importance of their workforce and have realized its importance in the success of

their business.

It is true that construction was once dominated by unions. However, that unionization occurred largely by default. There was no grassroots movement of a workforce committed to trade unionism. Rather, construction employers willingly ceded control of their employees to Building Trade Unions through voluntary recognitions. The hope by contractors was that manpower needs could be managed by the unions, thus allowing employers to concentrate on other construction issues.

Experience through the boom construction years in Western Canada convinced most employers that they had made a bad choice. Strikes and lockouts, low productivity, inefficient jurisdictional rules and cost escalations were constant sources of frustration. While those factors could be tolerated in the high-flying seventies, they were crippling in the fiercely competitive market that developed when the boom came to an end.

Construction owners and managers are now firm believers in how important the workforce really is to the success of their businesses and how ill-suited craft based unionism is to an efficient construction operation. They are determined to manage their companies in a way that will see their employees predisposed to reject overtures from unions.

2. Improved Benefits for Non-Union Employees

The determination of contractors to operate open shop prompted the development of new employment-related services for non-union construction workers. The Merit Contractors Association was created primarily as a vehicle for non-union construction contractors to offer to their workforces, services previously available only through trade unions. These include portable health and dental benefits, retirement programs, training and job referral. These add-ons to the construction workers' wage packages were once the main attractions of union membership. The fact that they are now standard with a sizeable group of non-union employers is one of the main reasons that employees choose not to support the union in a certification vote.

Companies that have benefit and retirement programs are not viewed by union organizers as likely targets. The common response they get from employees is, "Why should I pay dues to a union when I already have what they're offering?"

3. Knowledge of Issues by Employees

Many construction workers have at one time been union members and worked under collective agreements. They are familiar with the Building Trade Unions and how they operate. Some of these workers were left very dissatisfied with their union experience, have no desire to unionize their current employer and are not shy about telling fellow workers those opinions during an organizing drive. Hiring hall rules and pension issues

are frequently cited as reasons for not wanting to return to union membership. Pension management, in particular, has left a legacy of bitterness amongst many ex-union members who saw substantial sums of money contributed on their behalf but have not seen any return. Workers regard the RRSP's offered in the non-union sector as far more desirable because they provide personal control of funds.

Canadians in all occupations have been exposed to non-stop media focus on issues such as globalization and competitiveness since the days of the free trade debate. Everyone has seen news reports of layoffs and disruptions as many industries from different sectors of the economy struggle to cope with changing market conditions - often triggered by events remote from the actual workplace. Most employees in construction recognize that, despite promises union organizers might make, a collective agreement can't be a magic solution that will guarantee them high wages and continuous employment in the highly competitive construction market. Generally, construction tradespeople are well aware there is no free lunch, and they do not hesitate to question anyone who appears to be offering one.

4. Employment Opportunities

Construction is an industry where job security is seldom assured. Employment can be disjointed and is often on a project-by-project basis. The possibility for workers to have continuous employment through hiring halls was once one of the main selling points for union organizers. With union market share now drastically reduced, they can no longer offer assurances of ongoing job prospects. An increase in industrial projects has increased the amount of union work in progress in Alberta, but those types of jobs, often remote and in camp settings, are not necessarily attractive to all workers.

Being unable to provide their members with sufficient work opportunities is a serious problem for the unions. In discussing the difficulties that the Carpenters' Union is having with organizing in British Columbia, Douglas McCarron, the union's General President wrote, "Why would a carpenter abandon his connection to a steady employer when the union can only offer work for union wages to less than half our membership and often with only meagre hours at that?"

5. Effective Response by Employers to Organizing Drives

Under previous labour legislation in Alberta, many employers believed that they were severely constrained in their ability to communicate with their employees during union organizing campaigns. Today, employers are more direct in communicating the company's position to employees. In the past, employers may have been ambivalent as to whether or not their employees were unionized. Now, most employers view unionization to be such a competitive disadvantage in the construction market that it could put them out of business, and they are highly motivated to convince their employees to reject

unionization.

Vote results show that when employees have **all** the relevant information regarding the pros and cons of unionization they are less likely to vote in favour of union representation. Surprisingly, this includes employees who may already be union members. With the construction industry's highly mobile workforce it is not unusual for employees of open shop construction firms to also maintain union membership. Certification votes involving employee groups with sizeable numbers of existing union members commonly result in employees rejecting unionization for that particular company. These results are particularly distressing to union officials, and union newsletters sometimes express their disappointment and frustration when their own members are not supportive in certification efforts.

6. Activities Associated With Organizing Drives

Although union organizers aim to gain the confidence of employees during the course of an organizing drive, they often accomplish the exact opposite. Union communications often contain rhetoric about employers exploiting workers and pocketing big profits. For most construction tradespeople this does not ring true as they often work at small companies where the proprietor started out as a fellow tradesman who may still, on occasion, work side-by-side with his crew. When employees have a long-standing personal relationship with management personnel, union organizers may be viewed as outsiders and looked upon with mistrust.

Perhaps most damaging to unions' hopes of winning certification votes are incidents of harassment, vandalism and intimidation which, coincidentally, seem to occur during organizing drives. These events, while incredibly stupid, are still reported. They range from subjecting workers to unwanted calls at home, to threats of loss of future work opportunities, to tire slashing and overt threats of violence. All are officially disavowed by the union leadership yet continue to be an accompaniment to organizing efforts.

Anyone on the receiving end of this kind of treatment usually develops a life-long aversion to unions. The IBEW (International Brotherhood of Electrical Workers) aired this topic at an April 1999 conference where a speaker discussed organizing and the effect of these tactics, *"I suspect most of us would never forget someone - or an organization - that personally threatened our lives or our family. Unfortunately, while in the past, these things happened. I've heard about this many times. The only good thing I can report is that, in most cases, it happened many years ago."*

No Surprises in Construction Industry Trend

That construction workers are voting to reject union representation is not unusual and is, in fact,

part of a North America-wide situation of steady decline in union membership. As the economy and the workplace evolves and changes ever more rapidly, the old industrial models of how labour and management work and relate are becoming less relevant and practical. The construction unions are among the more traditional groups within the union movements and have shown little change in their methods and structure over the past 25 years. With the continuing expansion and evolution of the construction market and employers constantly striving to improve their competitiveness, it is unlikely that unions will improve their success rate with certification votes.