

Don't Pull The Tapes: Employer Dinged By NLRB For Surveilling Employee Union Activity On Video Archives

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The National Labor Relations Act (NLRA) puts limits on what employers can do if/when their employees express interest in forming a union in the workplace. Generally, employers cannot threaten employees based on their union activity; interrogate workers about their union activity, sentiments, etc.; make promises to employees to induce them to forgo joining a union; or engage in surveillance (*i.e.*, spying) on workers' union organizing efforts. To the extent an employer violates the NLRA by engaging in these acts, it can negatively affect union election results and result in other penalties. A recent decision from the National Labor Relations Board (NLRB) offers a reminder that employers must tread carefully when union activity is afoot in their workplaces. In [AdvancePierre Foods, Inc.](#), which was decided by the board on July 19, an employer was found to violate the NLRA when, among other things, it pulled archived video footage at its site upon becoming aware of union activity. During its review of the tapes, it observed two employees passing out union literature in company breakrooms and the company disciplined those employees for doing so. The NLRB found that the employer's review of archived footage constituted unlawful surveillance of the workers' union activity. The employer also was found to have unlawfully interrogated employees. This case serves as an important reminder that there are very specific rules employers must abide by when union activity surfaces in the workplace, and there can be harsh consequences for companies who misstep in this area when trying to remain union-free.

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