

The NLRB's Second Bite Of The Apple

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“The Walk Out”

Federal Security provides armed security guards to public housing sites in Chicago. The Company fired 19 of its security guards after they staged a “walk out .” The guards subsequently filed an unfair labor practice charge alleging their walk out was “protected concerted activity” under the National Labor Relations Act (NLRA) (i.e., the right for employees to act together to try to improve their pay and working conditions or fix job-related problems). Although the NLRB sided with the employees, the Seventh Circuit Court of Appeals disagreed noting that the activity was unprotected because it compromised the safety of those residing at the public housing sites.

Federal Security Seeks To Recoup Its Costs

After the Seventh Circuit's ruling, Federal Security filed a complaint in state court against a number of the employees who participated in the Board proceedings. In its complaint, Federal Security sought attorney's fees and costs incurred by the Company for having to defend what it believed was a frivolous action. The state court issued a default judgment against 11 of the former security guards who did not respond to the complaint. Federal Security ultimately dismissed the suit voluntarily with respect to the remaining former security guards who did respond.

The NLRB'S Reaction

In response to the state court action, the NLRB General Counsel filed a complaint on behalf of the former security guards alleging that Federal Security violated the NLRA when it sought to assert its rights in state court to recover attorney's fees and costs in connection with its victory in federal court. According to the NLRB General Counsel, Federal Security's act of filing the lawsuit was, among other things, motivated by a retaliatory animus. Because the NLRB found that Federal Security had violated the NLRA on procedural grounds, it declined to explicitly examine the Company's motivation for filing suit. Regardless, the outcome was a victory for the NLRB General Counsel. *Federal Security, Inc.*

Federal Security, Inc. is just another example of how the once relatively obscure agency is taking steps to solidify its position as the "champion" of employee rights.