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Is Fighting With Coworkers Protected Activity?

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**David J.
Pryzbylski**
Partner

Workplace disputes, whether they are verbal or physical altercations, often result in discipline. To the extent union organizing is ongoing in the workplace, however, the National Labor Relations Board (NLRB) has ruled over the years that coworkers must be given some leeway to engage in [heated exchanges in the workplace](#) over this and similar issues. A [recent labor board case](#) illustrates some of the problems employers encounter, at times, in this area.

In the case, the Teamsters union was attempting to unionize a trucking company. One of the lead organizers was terminated by the company for “fighting” with coworkers. Management knew the employee was one of the leaders in the union effort. The company, however, failed to produce any testimony or any evidence that actual fighting occurred. Rather, it appeared the employee was discussing and arguing with coworkers about issues related to the union organizing attempt – which is protected activity. Accordingly, the NLRB ruled the employer violated labor law by discharging the employee and overturned the termination. The board held that the reference to “fighting” was a “euphemism for discussing or debating the union.”

While the [NLRB has upheld discharges](#) of union organizers in some cases, this decision shows that strong evidence of a valid policy violation is needed for a company to prevail in such cases.

