

Illegality Of Union Resignation Rule Upheld By D.C. Circuit Court

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The D.C. Circuit recently upheld the National Labor Relations Board's (NLRB) finding that a union's resignation rule violated the National Labor Relations Act (NLRA). Under the rule, employees who wanted to resign from the union or opt out of paying dues had to travel to the union hall with a picture ID and a written request. The NLRB held that it was inconvenient for workers to have to travel to the hall to resign and that the rule might discourage workers who wished to avoid a face-to-face encounter with a union representative over their decision. Unions have freedom to make their own rules, a fact highlighted by Member Mark Gaston Pearce in his dissent. Unions also have an incentive to make burdensome resignation rules because their financial survival rests on their ability to retain dues paying members. These rules often require employees to jump through hoops to resign or revoke their dues check-off authorization, and employees have been required to strictly comply with these rules. For example, in a case recently touched on in this [blog](#), an employee did not properly revoke their dues check-offs because the revocation was sent via regular mail instead of certified mail. Despite wide latitude to make their own rules, the D.C. Circuit agreed with the NLRB majority that the particular rule in this case crossed the line. The Board had found the rule to be invalid on its face because, while the union claimed the rule was enacted to prevent fraudulent resignations, it provided no evidence that any fraudulent resignations had occurred. The decision is a positive development for employees wishing to exercise their right to choose whether to be in a union or not. Particularly in right to work states, like Michigan in this case, employees have the right to resign or stop paying dues, and this case shows that a union's attempt to impede the exercise of those rights can be unlawful.

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