

NLRB Says There Is Such Thing As A Free Lunch

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This week, the National Labor Relations Board (the NLRB) attempted to disprove the old adage that there's no such thing as a free lunch. In *Gates & Sons Barbeque of Missouri, Inc.*, decided on September 16, 2014, the three-member panel of the NLRB unanimously affirmed most of the decision reached by an administrative law judge (the ALJ) that a Kansas City barbecue restaurant chain violated employee rights by taking away the meal benefits previously afforded to its employees. The free lunch at issue in this case consisted of a meat sandwich and a side provided to each employee during each shift that he or she worked, a \$6 to \$10 value. This lunch benefit was provided to employees at the Main Street location (the only location, out of eight total locations, at issue) from at least 2011 until the end of July 2013. Other benefits received by employees during this time included the right to make purchases on a "tab," to be deducted from future paychecks, and qualification for monthly bonuses tied to the location's performance. In July 2013, some of the employees of the Main Street location took part in a campaign, organized by the Workers' Organizing Committee of Kansas City (the WOC), to obtain higher wages for food workers. Prior to the planned 1-day strike organized by the WOC, the Main Street location manager met with a group of employees that had previously met with a WOC organizer and made various threats intended to stop them from striking. In spite of the threats, nine out of the thirty Main Street employees participated in the 1-day strike. The workers that struck were all allowed to return to work, but the Main Street location supervisors announced the following week, via posted notices and word of mouth, that they were discontinuing certain employee benefits, including the free employee meals and the right to buy food on a tab. Despite the testimony of one of the Main Street location's supervisors that the free lunch was taken away from the workers because of customer complaints and poor performance, the ALJ found that the taking away of the free lunch and other benefits was a violation of Section 8(a)(1) of the National Labor Relations Act because it was in retaliation for the employees' participation in the 1-day strike. *Gates & Sons* was ordered to make their employees whole for the lost meal benefit.

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