

The Search Is On: Federal Court Upholds NLRB's Imposition Of Job-Search Costs On Employer

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The National Labor Relations Board (NLRB) not only has been augmenting the scope of issues it adjudicates in recent years, it also has been expanding its remedial powers. One example of this trend occurred [in a bad faith bargaining case](#) where the NLRB ordered an employer to pay negotiating costs/expenses incurred by a union. In another case that came down in 2016, the NLRB changed its approach to awarding job-search expenses. Historically, the NLRB has not awarded such costs to employees who allege they have been unlawfully discharged; the agency only allowed such costs/expenses to be used as offsets to interim earnings (interim earnings reduce potential backpay to which a discharged employee may be entitled). The NLRB reversed course on this issue in 2016 and ruled it now generally will permit employees who were improperly discharged to seek and receive subsequent job-search costs. The employer appealed the NLRB's decision to change course with respect to job-search costs to the [U.S. Court of Appeals for the District of Columbia Circuit](#). On June 9, the court sided with the NLRB and ruled that the agency's new approach to job-search expenses was reasonable. Accordingly, employers facing alleged unlawful discharge allegations before the NLRB need to be mindful of the expanded remedial powers being utilized by the agency in these cases.

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