

NLRB General Counsel Requests To Expand Worker Protections Regarding Intermittent Or Partial Strikes

Amber Cox
11.29.2016

Intermittent or partial strikes are becoming more common as unions continue to push for an increased minimum wage, particularly in the quick-serve restaurant industry. The National Labor Relations Board's (NLRB) General Counsel is seeking to clarify and modify the law on intermittent and partial strikes. To that end, the General Counsel proposed a framework for the NLRB to utilize when determining whether multiple worker strikes of short durations are protected by the National Labor Relations Act (NLRA). Under current law, employees who strike multiple times can lose protections under the NLRA and be subject to discipline, including discharge. The General Counsel proposed that multiple, short-term strikes remain protected conduct if they: (1) involve a complete work stoppage; (2) are not so brief to amount to a work slowdown; (3) are designed to exert economic pressure; and (4) the employer is aware of the reasons for the strikes. The General Counsel proposed that employers have no disciplinary recourse if employees strike repeatedly under these factors. Unfortunately, with this push, employers may be seeing increased strikes of short duration meant to disrupt the employer's operations. If employers are confronted with intermittent or partial strikes, they should consult counsel.

Attorneys

Amber L. Cox

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