

## *Unfair Labor Practices*

### **Lumber Company Didn't Mislead Workers About Strikers' Rights**

Workers who go on strike in disputes over wages or benefits can be permanently replaced, and a California lumber company didn't violate the law by warning its employees about that risk, an NLRB administrative law judge ruled July 6 (*Pacific Coast Supply, LLC*, 2017 BL 232757, NLRB ALJ, Case 20-CA-189966, 7/6/17).

The decision illustrates that employers can lawfully explain the risks and consequences of going on strike without spelling out all the rights of employees under the National Labor Relations Act.

The National Labor Relations Board's general counsel claimed Pacific Coast Supply LLC illegally threatened employees by failing to mention that strikers can return to work after a strike if permanent replacements have left their jobs. But ALJ Jeffrey D. Wedekind rejected the argument and dismissed the unfair labor practice case.

**Company Warned About Strike** According to the decision, Pacific Coast, which does business as Anderson Lumber, distributed a letter to employees, and talked to them in November 2016 staff meetings, about the possibility that contract talks with International Brotherhood of Teamsters Local 150 would break down and result in a strike.

Both the letter and an oral statement by the company's president addressed the situation of employees who participate in an economic strike, which is a job action not caused or prolonged by an employer's unfair labor practices.

The written statement warned that if the company chose to hire permanent replacement workers during a strike, "when the striking employees apply to return to work, the strikers are not automatically entitled to reinstatement at that time."

During the meetings, Pacific Coast President Curt Gomes told employees they had a right to strike, but the company had the right to hire replacement workers. Strikers aren't entitled to reinstatement when the strike ends, Gomes said to the workers.

**Statements Were Incomplete but Lawful** The NLRB held in 1968 in *Laidlaw Corp.* that "economic strikers who unconditionally apply for reinstatement at a time when their positions are filled by permanent replacements . . . are entitled to full reinstatement upon the departure of replacements."

The general counsel argued that Pacific Coast illegally implied the company would deprive employees of their *Laidlaw* rights, but the ALJ disagreed, and he dismissed the complaint. "Although the Company did not additionally explain that the strikers would eventually be entitled to reinstatement when vacancies occur, it was not required to do so," the ALJ said.

Mark S. Spring of Carothers DiSante & Freudenberger LLP in Sacramento, Calif., told Bloomberg BNA July 7 that Pacific Coast Supply "has always been careful" to ensure that its communications with employees comply with the NLRA. Spring said the company is pleased the ALJ agreed with its position.

A request for comment on behalf of Teamster Local 150 wasn't immediately returned.

Costa Kerestenzis of Beeson Tayer & Bodine in Sacramento represented the union.

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*Text of the ALJ decision is available at [http://www.bloomberglaw.com/public/document/NLRB\\_ALJ\\_Decision\\_Pacific\\_Coast\\_Supply\\_LLC\\_dba\\_Anderson\\_Lumber\\_No?doc\\_id=XJUG7UPC](http://www.bloomberglaw.com/public/document/NLRB_ALJ_Decision_Pacific_Coast_Supply_LLC_dba_Anderson_Lumber_No?doc_id=XJUG7UPC).*

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