

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Medallion Kitchens, Inc. v. National Labor Relations Board

806 F.2d 185 (8th Cir. 1986) · Decided November 26, 1986

SUMMARY

The Eighth Circuit affirmed the National Labor Relations Board’s finding that Medallion Kitchens violated the National Labor Relations Act by failing to reinstate economic strikers in place of temporary replacements and by making coercive pre-strike statements. The court held that the permanence of replacement workers was an affirmative defense rather than an unpleaded theory, and that substantial evidence supported the Board’s finding that the replacements were temporary. The court also upheld the Board’s determination that a supervisor’s statement that the union would not return if employees struck violated section 8(a)(1).

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	John R. Gibson
JURISDICTION	Federal
DECIDED	November 26, 1986
DISPOSITION	affirmed
PROCEDURAL POSTURE	Medallion Kitchens petitioned for review of an order of the National Labor Relations Board finding unfair labor practices under sections 8(a)(1) and 8(a)(3) of the National Labor Relations Act. The Eighth Circuit reviewed the Board's factual findings and legal conclusions and affirmed the Board's order.
STANDARD OF REVIEW	The court reviewed the Board's factual findings under the substantial-evidence standard, considering the record as a whole, and deferred to the Board on witness credibility and the weight of testimony. Whether the replacement employees were temporary or permanent was treated as essentially a question of fact. The court also examined the alleged section 8(a)(1) threats in light of the surrounding circumstances.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	Medallion Kitchens, Inc. v. National Labor Relations Board

TOPICS

unfair labor practices

labor law

administrative law

judicial review of agency action

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PRACTICE AREAS

labor law

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QUESTIONS PRESENTED

1. Whether Medallion was denied due process because the complaint allegedly failed to give adequate notice that the temporary or permanent status of the striker replacements would be litigated.
2. Whether substantial evidence supported the Board's finding that the replacement employees were temporary rather than permanent.
3. Whether Medallion violated sections 8(a)(1) and 8(a)(3) by refusing to reinstate economic strikers after their unconditional offer to return while recalling temporary replacements.
4. Whether the supervisor's statement that the Union would not come back if employees went on strike was coercive conduct violating section 8(a)(1).

HOLDINGS

1. Medallion was not denied due process because the temporary or permanent status of the replacements was not a new theory of liability but a matter bearing on Medallion's affirmative defense that legitimate and substantial business justifications excused its failure to reinstate the strikers.
2. The Board's finding that Medallion's replacements were temporary was supported by substantial evidence, and Medallion violated sections 8(a)(1) and 8(a)(3) by recalling those replacements instead of reinstating the returning strikers.
3. A supervisor's statement to employees that if they went on strike the Union would not come back was coercive under the circumstances and violated section 8(a)(1).

KEY QUOTATIONS

"The burden was on Medallion to come forward with its own defense as to why the failure to reinstate did not amount to a violation of the Act." (189)

"This statement by the ALJ does not indicate that he is requiring a formalistic expression of permanence." (190)

"Since Medallion points to no other evidence in the record that supports its position and was ignored by the Board, we conclude that the Board's findings were supported by substantial evidence in the record as a whole." (191)

"Keeping in mind that it is the function of the Board, not the court, to pass upon the credibility of witnesses and the weight to be given to their testimony, we conclude that the inferences drawn by the Board as to the threatening nature of Roeder's statements are warranted by substantial evidence in the record." (192)

FACTUAL BACKGROUND

Employees represented by Local 1267 of the United Auto Workers went on strike after rejecting Medallion's latest contract offer. Medallion hired replacements and told applicants that they would work until the strike ended, without stating how long that would be. After a fire halted production, Medallion told employees, including replacements, that it intended to reopen and get everyone back to work, but it did not expressly change the replacements' status to permanent. When the strike ended and the strikers unconditionally offered to return, Medallion recalled replacements but none of the former strikers; a supervisor had also told employees before the strike that if they went on strike, the Union would not come back.

PROCEDURAL HISTORY

The Union filed unfair labor practice charges after Medallion recalled striker replacements but none of the former economic strikers following the strikers' unconditional offer to return. The administrative law judge found that the replacements were temporary and that a supervisor's prestrike statements violated section 8(a)(1); the Board affirmed. Medallion appealed, arguing lack of due process, insufficient evidence, and that the statements were not coercive. The court affirmed, while noting that a separate issue concerning accrued and random day benefits was moot because Medallion had paid the amounts with interest.

DISPOSITION

affirmed

CASES CITED

- NLRB v. Fleetwood Trailer Co., 389 U.S. 375, 378-79 (1967)
- Boyle's Famous Corned Beef Co. v. NLRB, 400 F.2d 154, 160, 163 (8th Cir. 1968)
- NLRB v. Homemaker Shops, Inc., 724 F.2d 535, 542-44 (6th Cir. 1984)
- NLRB v. Complas Industries, Inc., 714 F.2d 729, 734 (7th Cir. 1983)
- Presto Casting Co. v. NLRB, 708 F.2d 495, 498 (9th Cir. 1983), cert. denied, 464 U.S. 994 (1983)
- NLRB v. Mackay Radio & Telegraph Co., 304 U.S. 333, 345-46 (1938)
- Hot Shoppes, Inc., 146 N.L.R.B. 802, 804 (1964)
- Universal Camera Corp. v. NLRB, 340 U.S. 474, 488 (1951)
- NLRB v. Vincent Brass & Aluminum Co., 731 F.2d 564 (8th Cir. 1984)
- NLRB v. Great Dane Trailers, 388 U.S. 26, 34 (1967)
- NLRB v. Intertherm, Inc., 596 F.2d 267, 271, 275 (8th Cir. 1979)
- Russell Stover Candies, Inc. v. NLRB, 551 F.2d 204, 208 (8th Cir. 1977)
- R.J. Lallier Trucking v. NLRB, 558 F.2d 1322, 1325 (8th Cir. 1977)