



National Postal Mail Handlers Union

THE BREAKDOWN

Eye on the NLRB: October 2007

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Radical Labor Board Ruling Undermines Organizing Efforts

Until now, workers have successfully formed unions through voluntary recognition, a process where employers agree to recognize a union once a majority of workers sign cards. This peaceful, swift, and non-disruptive organizing method provides an alternative to the flawed National Labor Relations Board (NLRB) election process. However, workers and employers who use this method are now undermined by a major ruling of the NLRB. The Republican majority of the Board sided with anti-union groups in radically changing the law. Without providing legitimate factual evidence to justify reversing 40 years of precedent, the Board exposed its real political motivations.

The Dana Metaldyne decision concerns the longstanding voluntary recognition bar, which for nearly 40 years protected a newly-formed union from an immediate threat of decertification. This protection allows stability during the bargaining of a first contract. In the current case, both Dana Corp. and Metaldyne Corp. voluntarily recognized that a majority of their workers formed unions with the United Auto Workers. When the Regional NLRB Director dismissed decertification petitions filed by anti-union employees a few weeks after recognition was granted, the anti-union National Right to Work Legal Defense Foundation filed charges on behalf of these employees to challenge this longstanding protection.

In its decision, the Republican majority of the Board created a 45-day window in which as few as 30 percent of anti-union employees can sign a petition triggering an election to decertify the union. As the dissenting Board members wrote, a minority of anti-union employees can now “hijack” this important period of time when an employer and union need to begin bargaining a contract, potentially destabilizing their relationship.

According to the dissent, this ruling is detrimental to voluntary recognition: “One important reason employers choose voluntary recognition is to avoid the time, expense, and disruption of an election. That rationale, however, is critically undermined by the majority’s modifications. An employer has little incentive to recognize a union voluntarily if it knows that its decision is subject to second-guessing through a decertification petition.”

More and more workers seek alternatives to organizing through the lengthy, conflict-ridden NLRB election process. When unions and employers can come together to agree on a peaceful process of organizing, the Board should promote this progress in labor relations. Instead, the Board turned on its own mission to promote collective bargaining, and is aiding the right-wing attack on the freedom of association. This ruling further underscores the need for Congress to pass the Employee Free Choice Act, which would allow workers to more freely form unions.

