

## **Penalties for Repeated or Serious Misconduct Cases Outlined by National Labor Relations Board**

The U.S. National Labor Relations Board (NLRB) has penalized employers who repeatedly or egregiously violate federal labor law. In a decision made on April 20, the NLRB ruled that Nebraska-based meat processing firm, Noah's Ark Processors, breached the National Labor Relations Act by not bargaining in good faith with its workers' union. The board had previously found that the company had committed other violations and had been held in contempt of a federal judge's order requiring it to bargain with the union.

The NLRB's recent decision outlined that it must maintain consistent standards for penalizing businesses for serious misconduct. To achieve this, it said it would consider several remedies, including publishing notices of violations in media outlets, requiring notices to be posted in workplaces, and reimbursing unions' bargaining expenses in the future. "The act gives the board broad discretion to exercise its remedial authority, and it can and should tailor the remedies to the violations, including to their nature, severity, and extent," stated Lauren McFerran, chairman of the NLRB, in an April 20 statement. "Our aim is to ensure that in every case involving repeated or serious misconduct, the board will consistently consider and implement a full range of potential remedies so that our actions will make victims of unfair labor practices whole while ensuring that employees not only understand their rights under the act but also feel free to exercise them going forward."

According to Reuters, the NLRB's only Republican member, Marvin Kaplan, agreed that Noah's Ark Processors violated the law, but in a partial dissent, he stated that his colleagues should not have gone beyond the facts of the case to outline penalties that could be ordered in other cases in the future. "My colleagues clearly believe that it is appropriate to provide litigation advice to the general counsel," wrote Kaplan. "I do not."

Employers who violate federal labor law may face penalties such as back pay, fines, and reinstatement of terminated employees. However, the NLRB's recent decision has highlighted that additional remedies may be necessary in cases involving repeated or serious misconduct. The NLRB's decision to outline these remedies indicates that it plans to take a more active role in ensuring businesses comply with labor laws and avoid violations.

The NLRB is responsible for enforcing the National Labor Relations Act, which protects workers' rights to form unions and engage in collective bargaining. The act also prohibits employers from engaging in unfair labor practices, such as retaliating against employees for participating in union activities or interfering with employees' efforts to unionize. When violations occur, the NLRB investigates and prosecutes cases of unfair labor practices on behalf of workers.

In recent years, the NLRB has taken an increasingly active role in protecting workers' rights, particularly in cases involving gig economy workers and other non-traditional work arrangements. The board has also faced criticism from some business groups, who argue that its decisions favor workers at the expense of employers. The NLRB's recent decision to outline penalties for repeated or serious misconduct indicates that it plans to continue its efforts to protect workers' rights and hold employers accountable for labor law violations.

In conclusion, the NLRB's recent decision to outline penalties for businesses that repeatedly or egregiously violate federal labor law highlights the board's commitment to protecting workers' rights and ensuring compliance with labor laws. Employers who violate labor laws may face penalties beyond fines and back pay, including publishing notices of violations in media outlets, requiring notices to be posted in workplaces, and reimbursing unions' bargaining expenses. This decision indicates that the NLRB plans to take a more active role in holding businesses accountable for labor law violations and protecting workers' rights going forward.