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LABOR SCENE

Federal board allows contact by company

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Direct communication between a company and its union employees can be a touchy subject, especially during contract talks. A local union charged one St. Joseph employer with violating labor laws related to that, but the company was ultimately exonerated.

The **National Labor Relations Board** in Washington last month reversed a previous ruling and dismissed a complaint against **Boehringer Ingelheim Vetmedica Inc.**, an animal health company.

The charge was brought in 2004 by **United Food and Commercial Workers District Union Local 2** of Kansas City, which represented about 150 employees at the St. Joseph business.

According to the ruling, talks ended between Boehringer and union representatives without a contract on Nov. 12, 2004. A company official declined the union's request to extend the existing contract and continue negotiations.

A Boehringer executive called the situation a strike, while union officials said the company was engaging in a lockout.

The company sought a written assurance from the union there would be no strike, or in the alternative, have employees who wished to work individually sign their own no-strike

pledges. The union declined both options, reiterating its wish to extend the old agreement.

When employees reported for work the next day, they all were sent home after declining to individually sign the no-strike forms.

Although a contract was reached a week later and the employees returned to work, the United Food Workers unit filed a complaint, contending that Boehringer violated federal labor laws by trying to deal directly with the union workers rather than through their bargaining unit.

In October 2005, an administrative law judge at the labor board's regional office in Overland Park agreed with the union. Although the company's lockout was initially legal, it became illegal when Boehringer presented the no-strike forms to the individual employees for signing, ruled Gregory Z. Meyerson.

In a 2-1 ruling, the labor board in Washington disagreed and said the no-strike forms presented to the workers did not address the wages and benefits the union was negotiating. "Indeed, far from eroding the union's position as bargaining representative, the respondent (Boehringer) encouraged employees to consult with the union before deciding whether to accept the respondent's offer," the ruling stated. "Under these circumstances, we find no unlawful direct dealing."

An attorney for Boehringer said the company was pleased with the decision.

"It is important to note the NLRB found no evidence of any anti-union sentiment by Boehringer," said Anthony Byergo of **Ogletree, Deakins, Nash, Smoak & Stewart**. "The NLRB's decision simply confirms the right of a company to shut down operations to defend itself in the face of a strike threat and to require as a condition for returning to work a reasonable assurance against a subsequent walkout."

A lawyer for the union said there was no comment.

Peter C. Schaumber and Peter N. Kirsaruled in the company's favor. Dissenting was Dennis P. Walsh, who disagreed with the majority's view that Boehringer acted properly because the workers initiated a "nonverbal" inquiry by showing up for work after the contract expired.

"The employees here were not on strike, but unexpectedly locked out," he wrote. "To suggest that they initiated a dialogue merely by reporting for work is simply wrong."

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