

Divided NLRB Rules (Again) that Dues Deductions Survive Contract Expiration

Practical Guidance on **October 28, 2022**

For more than five decades, employers could cease deduction of dues at the expiration of a collective bargaining agreement as a legitimate economic weapon. It was only recently that, as part of the constant shifting of precedent at the Board, the decades-old rule has been disturbed.

On September 30, 2022, the National Labor Relations Board issued the most recent iteration of the rule. In a 3-2 decision (split along party lines) *Valley Hospital Medical Center, Inc. [Valley Medical Center II]*, 371 NLRB No. 160, the Board once again held that employers may not unilaterally cease dues checkoff arrangements after the expiration of a collective bargaining agreement. Specifically, Democrat Board members Chairman Lauren McFerran and Members Gwynne Wilcox and David Prouty determined that the employer must continue deducting dues until either a new contract or valid impasse is reached because such deduction “should be treated as part of the status quo that cannot be changed unilaterally after contract expiration.” The Board applied the new rule retroactively and concluded that the employer should pay the union dues that were not collected after it ceased dues deduction.

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