

Boeing and the N.L.R.B.

It may be a difficult case to prove, but the complaint filed last month by the National Labor Relations Board against Boeing is a welcome effort to defend workers' right to collective bargaining.

The N.L.R.B. is accusing the company of setting up a nonunion production line in South Carolina to retaliate against unionized workers in Washington State for striking. The board wants to force Boeing to make all of its new Dreamliner jets in Washington, rather than make 30 percent of them at the new line in Charleston.

The case hinges on proving Boeing's intent. It is illegal to retaliate against workers for striking — there have been four strikes at the Washington facility since 1989 — or threaten workers in order to discourage strikes. But the company can decide to locate production in South Carolina because it makes business sense and may include “production stability” as a factor in its decision.

Boeing says it wants to diversify its assembly to make it less vulnerable to disruptions caused by potential future strikes. Further complicating the N.L.R.B.'s case, Boeing says opening the line in South Carolina will not lead to layoffs in Washington, where it is adding jobs, too.

The N.L.R.B.'s action lands squarely on an ambiguity in the nation's labor protections — which enshrine the right to collective bargaining yet allow companies ways to avoid it by going to another state.

Today, 1 out of 13 private sector workers is in a union, down from about 1 in 4 in the early 1970s. Many forces are contributing to this erosion, including globalization and the decline of manufacturing. But one important force is the flight of companies to “right-to-work” states where workers cannot be required to join a union. Currently, unionized workers nationally make 19 percent more than nonunion workers, on average.

The N.L.R.B.'s case rests on statements by Boeing officials that, it believes, prove retaliation. One Boeing executive told *The Seattle Times* that the main reason to put the new line in South Carolina was “that we cannot afford to have a work stoppage, you know, every three years.”

A hearing before an administrative law judge is scheduled for June. The judge's decision can be appealed to the full board, and the board's decision can be appealed in federal court. If

the N.L.R.B.'s position is upheld, this case could draw some clearer lines on what businesses can and cannot do to avoid dealing with unions. At the very least, this case will shed light on the business strategies employed by a powerful company to resist unionization.

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