

## **Discrimination to Encourage or Discourage Union Membership**

The unfair labor practice provisions of Vermont labor relations acts make it an unfair labor practice for an employer “by discrimination in regard to hiring or tenure of employment or by any term of condition of employment to encourage or discourage membership in any employee organization”.<sup>1</sup> In one municipal case, the Board determined that an employer committed an unfair labor practice by discriminating against employees with the intent to encourage union membership by maintaining and enforcing a provision of the collective bargaining agreement providing “superseniority” for union shop stewards for purposes other than layoff and recall, including bidding for preferential jobs. The Board concluded that the employer’s action “reinforce(d) the union’s message that an employee should strive for the office of shop steward in order to be eligible for lucrative job bids.”<sup>2</sup>

In another municipal case, the Board determined that an employer committed the unfair labor practice of discriminating against an employee to discourage union membership by requiring an employee engaged in a lawful strike to resign from the union before permitting her to return to work.<sup>3</sup> The Board stated that the employee “had protected statutory rights to belong to the union and to strike”, and “(t)o require her to resign from the union as a condition of returning to work after a strike was a blatant violation of these rights.”<sup>4</sup>

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<sup>1</sup> 3 V.S.A. §961(3), 3 V.S.A. §1026(3), 21 V.S.A. §1621(a)(3), 21 V.S.A. §1637(B)(3); 21 V.S.A. §1726(a)(3).

<sup>2</sup> Dube v. Teamsters Local 597 and Chittenden County Transportation Authority, 3 VLRB 70, 91 (1980); *Affirmed*, 139 Vt. 394 (1981).

<sup>3</sup> International Brotherhood of Electrical Workers, Local 300 v. Enosburg Falls Water and Light Department, 8 VLRB 193, 212 (1986).

<sup>4</sup> Id.