This Is The Clause That Never Ends, It Goes On And On, My Friends

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David J. Pryzbylski
Partner

Many, if not most, clauses in contracts generally terminate when the contract expires. A recent case from the National Labor Relations Board (NLRB) shows, however, that American labor law, including principles that apply to collective bargaining agreements, is not always that simple.

At issue in the case was a company that managed various hotel properties subject to a collective bargaining agreement. The contract included a clause setting forth "longevity pay increases" for workers. Under the longevity pay clause, employees received raises once they reached certain tenure milestones with the company. The employer and union were meeting to negotiate a successor contract, and the agreement expired in the interim. Once the labor agreement expired, the company ceased offering longevity pay increases on grounds that there was no agreement in effect that provided for such increases.

The union filed charges against the company alleging, among other things, that the employer violated the National Labor Relations Act by ceasing longevity pay when the agreement expired. The NLRB agreed. The Board noted precedent and explained: "It is clear that, following the expiration of a collective-bargaining agreement, an employer must maintain the status quo of all mandatory subjects of bargaining until the parties either agree on a new contract or reach a good-faith impasse in negotiations." In other words, a company generally must continue to offer employees the terms set forth

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under a collective bargaining agreement when it expires and while negotiations for a new contract are underway.

There are some exceptions to this rule, such as when a clause specifically states the benefits provided for within it terminate upon expiration. The longevity clause here, however, did not have any such language and no other exceptions applied. Therefore, the company violated labor law by unilaterally ceasing the longevity pay increases and was ordered to pay out longevity pay to all employees who missed such raises as a result of the employer's actions.

This case illustrates some of the nuances that come into play when unionized companies are operating under an expired labor agreement and offers a reminder for companies to carefully analyze their obligations in such circumstances. Missteps in this area can be costly.