

"Context Matters" Reasons The Board As It Forgives Workplace Vulgarly And Lying

September 25, 2012 | [Labor And Employment](#)

Shortly before a decertification election, an anonymous warehouse worker wrote vulgar statements on union newsletters in the employee breakroom (you can read the vulgar statements in the Board's actual decision [here](#)). The anonymous employee accidentally confessed to writing the statements (in a phone call to a company vice president whom the employee mistakenly believed to be his union rep) and was terminated for vulgar statements and lying to investigators.

The ALJ upheld the termination reasoning that the egregiousness of the employee's behavior removed him from the protections of the Act. However, the Board reversed the ALJ's decision, and essentially reasoned that the employee's behavior "wasn't that bad." Member Hayes strongly dissented to the majority decision based, in part, upon his belief that the decision significantly impedes an employer's ability to maintain civility and order in the workplace.

The full Board decision can be [found here](#).

RELATED PRACTICE AREAS

Labor and Employment
Labor Relations