

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1950

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

DIVERSIFIED ENTERPRISE, INCORPORATED,

Respondent.

On Application for Enforcement of an Order of the National Labor
Relations Board. (9CA-43110)

Submitted: June 29, 2011

Decided: July 13, 2011

Before WILKINSON and DAVIS, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition granted by unpublished per curiam opinion.

Wesley V. Queen, Mount Hope, West Virginia, for Petitioner.
Lafe E. Solomon, Acting General Counsel, Celeste J. Mattina,
Acting Deputy General Counsel, John H. Ferguson, Associate
General Counsel, Linda Dreeben, Deputy Associate General
Counsel, Meredith L. Jason, Deputy Assistant General Counsel,
Christopher W. Young, NATIONAL LABOR RELATIONS BOARD,
Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

The National Labor Relations Board ("Board") seeks enforcement of a Board order against Diversified Enterprise, Inc. ("Diversified"). The Administrative Law Judge ("ALJ") concluded that Diversified violated § 8(a)(1) and (3) of the National Labor Relations Act, 29 U.S.C. § 158(a)(1), (3) (2006). The Board, by a two-member delegee group, adopted the ALJ's recommended order with minor modifications.

In its prior appeal to this court, the Board filed an unopposed motion to remand the case based on the Supreme Court's holding in New Process Steel, L.P. v. NLRB, 130 S. Ct. 2635 (2010), that the Act does not authorize fewer than three members to form a valid delegee group. We granted the motion and remanded to the Board for further proceedings.

On remand, the Board, by a three-member panel, affirmed the ALJ's findings of fact and conclusions. We conclude that substantial evidence supports the Board's decision. Accordingly, we grant the petition for enforcement. We dispense with oral argument because the facts and legal conclusions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION GRANTED