

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5245

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

HI-TECH CABLE CORPORATION, a Subsidiary of
Southwire Company,

Respondent.

Application for Enforcement of an Order of the
National Labor Relations Board
(26-CA-14536)

(June 3, 1994)

Before GOLDBERG, KING and WIENER, Circuit Judges.

PER CURIAM:*

We agree with the National Labor Relations Board that the rule adopted by Hi-Tech Cable Corporation banning tobacco use anywhere on the Company's property did not bear a sufficient connection to the provision in the Company's management rights proposal which gave the Company the right to act without bargaining in the general areas of "maintaining order,

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

effectuating safe operation of the plant, and promoting efficiency" so as to permit implementation of that rule without bargaining. The bargaining history confirms that a general rule of that nature was not discussed during the negotiations that preceded impasse. Further, we agree with the Board that the Company did not satisfy its statutory bargaining obligation by giving the Union an opportunity to pursue a grievance concerning the reasonableness of the no-tobacco rule after that rule was announced. As the grievance process actually operated here, the Union was not afforded an opportunity to negotiate. In summary, the Board reasonably concluded that the Company violated Section 8(a)(5) and (1) of the National Labor Relations Act by adopting its no-tobacco rule without bargaining with the Union and by issuing to an employee a disciplinary warning for violating that rule.

ENFORCED.