

Trump firings at labor board threaten union win at Whole Foods – and beyond

President Donald Trump's unprecedented firing of a federal labor official renders a key workplace regulator toothless – and could boost an attempt by Amazon and SpaceX to question its constitutionality before the Supreme Court.

February 1, 2025

🔊 6 min ➦ 📌 🗨 332



By Caroline O'Donovan

Soon after Whole Foods employees in Philadelphia celebrated winning a union election early this week, drama in Washington overshadowed the victory.

The same night workers voted 130-100 to join the United Food and Commercial Workers (UFCW) union, President Donald Trump rendered the federal agency that protects rights to unionize effectively toothless. He fired two leaders of the National Labor Relations Board — including one historically considered immune from presidential dismissal.

That unprecedented move late Monday temporarily disables the NLRB until Trump appoints his own board members, creating an opportunity for employers such as Amazon-owned Whole Foods.

Nelson Lichtenstein, a labor historian at the University of California at Santa Barbara, said Amazon's track record of opposing unions suggests the company will try to delay contract negotiations with the Philadelphia workers. "And with the NLRB neutered, there won't be anything anyone can do about it," he said.

Trump's intervention with the NLRB also set up a potential legal battle over its constitutionality that could eventually reach the Supreme Court. Such a case could boost arguments made by Amazon and Elon Musk's rocket maker SpaceX in ongoing federal lawsuits that the labor board's structure is unconstitutional.

Trump this week also fired two board members with the Equal Employment Opportunity Commission, which investigates claims of workplace discrimination by employers and can bring civil charges against them. That action also broke with decades of legal precedent.

NLRB employees have, like many others in the federal workforce, been roiled by confusion and anxiety after the swift and unprecedented changes made by the new administration.

In an email to some staff at the board sent on Friday and reviewed by The Washington Post, acting NLRB general counsel Jessica Rutter acknowledged that there was "uncertainty" and that "the past few days and nights have been

extremely scary and distressing for some of us.”

A White House official previously said the board members removed from the EEOC and NLRB were “far-left appointees with radical records of upending long-standing labor law” who have “no place as senior appointees in the Trump administration.”

Whole Foods spokesperson Rachel Malish provided a company statement that said the retailer was “disappointed by the outcome of this election” but “committed to maintaining a positive working environment in our Philly Center City store.”

Amazon founder Jeff Bezos owns The Post. SpaceX did not respond to a request for comment.

Monday's union victory at the Philadelphia Whole Foods is only the second official win at a workplace owned by Amazon, the second largest private employer in the United States.

Trump's assault on the labor board could threaten the labor movement's new toehold within Amazon and hinder unions across the nation, labor experts said.

Trump fired the labor board's general counsel, Jennifer Abruzzo, a political appointee generally understood to serve at the president's discretion. He also fired a second board member, Gwynne Wilcox, the first Black woman to hold the post, which has historically been protected from removal by the executive.

Wilcox has said she is evaluating “all legal avenues to challenge” her firing, which could eventually bring the matter before the Supreme Court.

The firings shouldn't technically impact the daily work of the agency such as holding union elections, said former Democratic board member and Harvard Law professor Sharon Block. “But the problem is that they can't amount to anything,” she said, because the board has lost “the ability to compel parties to do things they otherwise don't want to do,” such as bargain with employees.

Amazon has yet to bargain with workers at a warehouse in Staten Island who in 2022 won the first successful union election at the company.

The company has launched legal objections to the result and in November argued in a case filed in federal court that it shouldn't have to bargain with the Staten Island workers until courts have ruled on the constitutionality of the NLRB. That legal strategy was previously deployed in a similar case brought against the federal government by SpaceX.

The two companies argue that the 1935 law that established the labor board violated the Constitution by giving officials a mix of judicial, executive and legislative powers, and insulating them from removal by the president.

Amazon has argued in court that certain labor relations matters should be heard in conventional court proceedings instead of before the board, a process that would be lengthier and more costly for workers. Trader Joe's and more than a dozen other firms have made similar arguments.

Wendell Young IV, president of the UFCW local in Philadelphia that Whole Foods workers voted to join, said the company so far had not filed any objection to the “decisive” election result. He said that he hopes Amazon will come to the table and bargain fairly but that based on its past behavior, he is prepared for it to resist.

“I think they’ll find some way to kick it to Washington and find some way to take advantage of what Trump did for them,” Young said.

Whole Foods did not respond to questions about whether it planned to file any objections to the result before the five-day deadline to do so expires Monday.

It is not clear how Trump’s decision to remove two leaders of the NLRB will impact the suits Amazon and SpaceX filed against the board, said Block, the law professor. A legal challenge to the firings could propel arguments about the board’s constitutionality to the Supreme Court more quickly, legal experts said.

Block said the Trump administration hasn’t offered any legal justification for why the removals were lawful. “We may learn that their theories overlap with those theories that Amazon is putting forward in that litigation about the constitutionality of the board,” she said. “But we just don’t know yet.”

Amazon acquired Whole Foods for \$13 billion in 2017 and has since struggled to find a winning model for its grocery business, which also includes Amazon Fresh stores and its online grocery sales.

The e-commerce behemoth has been accused of illegal union busting dozens of times, most recently by the Teamsters union, which took over the national campaign to organize Amazon’s logistics operations from the Amazon Labor Union last year.

Alexandra Piper, 21, has worked at the Center City Philadelphia Whole Foods for three years. Workers in the three-story building — one floor of which is dedicated to grocery delivery orders and Amazon package pickup and returns — serve hot food, stock grocery aisles and fill online orders. She said the union campaign coalesced around demands for higher pay, more consistent scheduling and better benefits, especially health benefits for part-time staff.

After the vote count on Monday night, the mood among workers was celebratory, Piper told The Post. That gave way to anxiety the next morning when news of Trump’s intervention with the labor board became public. “It’s scary,” she said. “The Trump administration won’t make things easy,” she predicted, but “we aren’t going to give up.”

Lauren Kaori Gurley contributed to this report.