



NLRB Fires Shot At Handy, Taking Aim At Gig Economy In General

Insights

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Josh Eidelson from Bloomberg reported that the National Labor Relations Board (NLRB) issued a complaint against gig economy mainstay Handy earlier this week, alleging that the on-demand workers who provide home cleaning services through its online platform are actually employees and not independent contractors. The complaint was issued on August 28 out of the NLRB's Boston office; a copy has not yet been made public, but if Eidelson's report is accurate (and there is no reason to think it isn't), this is a troubling sign for gig businesses.

According to Eidelson, this case "is one of the first in which the agency is directly addressing under what circumstances a sharing-economy company's control over its workers makes it their legal employer – an issue on which its approach could soon change under Republican leadership."

We've talked about misclassification on this blog before...many, many times before. And so by now you know that the stakes could not be higher for Handy. If its workers are found to be properly classified as independent contractors, it's business as usual and it can continue to serve as a digital platform to connect interested consumers and workers who want to earn money performing cleaning services on their free time (or as an entrepreneurial career). However, if the NLRB ultimately determines the workers are employees who have been misclassified as contractors, all bets are off. The crux of this specific issue, as Eidelson reports, relates to wage-and-hour concerns over compensation. But a finding that the workers are employees could also expose the company to a whole host of assorted issues beyond wage-and-hour matters, from union organizing to unemployment to workers' compensation liability to civil rights compliance.

If there's any good news, it's that these kinds of proceedings often take some time to develop. The next step would be for a hearing before an administrative law judge, and after that, the next step in the review would be the Labor Board itself (if the Board's General Counsel selects the case for consideration on review). And by the time this specific case gets to that point, the Board will likely be comprised of a majority of Trump appointees, who could be more sympathetic to the gig economy's development and open to a fresh perspective on this growing industry. Stay tuned for much more on this case...

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