

# **Agricultural Labor Relations Act**

## **Employee Questions & Answers**

### **REMEDIES AND SETTLEMENTS**

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#### **REMEDIES**

##### **The ALRB Issued a Decision that My Employer Violated the Agricultural Labor Relations Act (Act). What Happens Next?**

If the decision is upheld for the farm worker, it will include a *remedy* to address any damage that was caused by the violation. A *remedy* is a set of instructions ordering the party who committed the violation to do certain things to correct the harm caused by the violation.

##### **What Are Common Remedies Imposed by the ALRB?**

- Telling the employer to offer a wrongfully discharged worker his or her job back;
- Ordering the employer to pay a wrongfully discharged worker back pay or lost wages;
- Requiring the employer to post, mail, and/or read the Board's notice to all agricultural employees so they can learn about the outcome of the case;
- Ordering the wrongdoer to stop engaging in the unlawful action.

##### **Can My Employer Challenge the ALRB's Remedy?**

A remedy ordered by the Board can be challenged by appealing the Board's decision to a California Court of Appeal.

##### **When Does the ALRB Order an Employer to Give a Worker Back Pay?**

The ALRB may order a back pay remedy when the violation involves a loss of work by the affected worker(s). Examples include: discharge, failure to hire or rehire, and reduction in hours or pay.

##### **My Employer Was Ordered to Give Me Back Pay. How Does the ALRB Know What Amount of Back Pay is Owed?**

First, the ALRB looks at the amount of pay you would have earned from the employer if the violation had not occurred. The back pay period starts the date of the violation. This amount may then reduced by the amount of any pay you have received from a any other employer since the start of the back pay period.

**Note:** If you lost your job as a result of the employer's violation, it is very important that you keep complete records about your search for other work. If you get other work, you should keep an accurate record of your earnings from your new job.

### **When Does the Back Pay Period End?**

The period for which back pay is owed continues until your employer offers to reinstate you or to restore you to the same position you were in before the violation.

### **My Employer Was Ordered to Give Me Back Pay. How Long Will it Take for Me to Be Paid?**

It is difficult to give a specific time period because each case is different. There could still be many steps involved even after the final decision and order of the Board are issued. For example, your employer may file an appeal of the Board's decision. In addition, it may take time to determine the exact amount of money your employer owes.

**Note:** It is very important for you and any other workers affected by the ALRB's order to keep in touch with the ALRB Regional Office where your case was filed. If you move to a new place, be sure to tell the Regional Office where you can be contacted in the future, so ALRB staff can keep you informed about your case.

### **What Happens if My Employer Does Not Do What He is Ordered to by the ALRB?**

If your employer does not comply with the Board's order, the Board may go to a California Superior Court to enforce the order. This may result in a judgment being issued against your employer.

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## **SETTLEMENTS**

### **What is a Settlement?**

A settlement is a mutual agreement between the parties in a case that resolves the issues in the case. The ALRB encourages settlement whenever possible, because settlements can resolve the parties' problems and concerns much faster.

### **When Can a Case Be Settled?**

The case can be settled anytime after a charge is filed. The Regional Director at the office where the charge was filed is available to help parties discuss a settlement.

### **Are There Limits on What the Terms of a Settlement Can Be?**

Yes. The terms included in a settlement must be consistent with the purposes of the Agricultural Labor Relations Act (Act). That means the settlement cannot allow the parties to do things that are prohibited by the Act. Settlement terms vary from case to case. An example of a settlement term could be an agreement for the employer to pay the amount owed in several payments rather than all at once.