

Is there a union brewing at Starbucks?

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On December 9, the NLRB conducted three separate union elections for baristas and shift supervisors. The union won in Elmwood, but lost 12-8 in a second Buffalo store. The third store failed to reach a verdict and faces a legal battle. There, 15 voted were cast for unionization and nine against, while seven votes were challenged. Most of the challenges came from the union, which argued that some workers who voted weren't regular employees at that location, but rather worked at other Starbucks locations.

Starbucks workers who vote to unionize will join Workers United, affiliated with the massive Service Employees International Union.

Starbucks has argued that the vote should be held among workers at all 20 stores in Buffalo, not just the three at which the union is trying to organize. The company said that's because workers often move between stores, and pay and benefits should be the same across the city. The union said that argument was an effort to dilute the vote at the stores where it has the strongest support for unionizing.

Significantly, in a recent filing with the Securities and Exchange Commission, in a section where Starbucks lists risks to the company, the chain said that "if a significant portion of our employees were to become unionized, our labor costs could increase and our business could be negatively affected by other requirements and expectations that could increase our costs, change our employee culture, decrease our flexibility and disrupt our business."

Starbucks is also concerned about how its efforts to defeat the union could hurt its reputation. "Our responses to any union organizing efforts could negatively impact how our brand is perceived and have adverse effects on our business, including on our financial results," Starbucks warned in the same filing.

Due to the huge symbolic importance of the vote, Starbucks conducted an intense campaign to defeat the union in Buffalo.

Throughout the fall, out-of-town managers and executives -- even Rossann Williams, Starbucks' president of retail for North America, and former CEO and chairman Howard Schultz -- converged on stores in Buffalo, where they questioned employees about operational challenges and assisted in menial tasks like cleaning bathrooms.

However, Starbucks' anti-union campaign may have backfired. Several workers who support the union said they found the presence of these officials intimidating and, at times, surreal.

Starbucks downplayed the significance of its loss, referring to the votes at the three stores as a "split decision." But the effort to organize Starbucks employees has been closely watched nationally. The company put a major effort into convincing employees that they were better off without a union, but at least in the case of one of the stores, it failed to make its case.

Starbucks has 235,000 employees spread across nearly 9,000 US stores. None so far have been members of a union. Employees, many in their teens and 20s, have been working to organize a union, Workers United, an independent affiliate of the SEIU.

Three more Buffalo stores and one in Mesa, Arizona are also trying to unionize. The unionized employees, who are joining an affiliate of the giant SEIU, received inquiries throughout the campaign from Starbucks workers across the country who said they were paying close attention and were interested in unionizing as well.

"I don't think it will stop in Buffalo, whatsoever," Alexis Rizzo, a worker at one of the stores and a leader in the organizing campaign, said at a news conference after the vote.

Workers cited frustration over understaffing and insufficient training when they filed for union elections at the stores in late August, problems that have dogged the company for years but which appeared to worsen during the pandemic. Such problems are not unique to Starbucks and have been problems for workers across the restaurant and retail industries for many years.

On the other hand, Starbucks says it offers many benefits that others in the industry do not, including health care coverage for part-time workers, parental leave, and college tuition reimbursement. Starbucks has implemented two wage increases in the past 18 months. Its average wage is more than \$12 per hour, the company says, adding that more than half of its U.S. employees earn more than \$15 an hour. The company says it has the best retention rate in the industry.

Starbucks Chief Executive Kevin Johnson said this week that unionizing would disrupt the company's direct relationship with its workers. Starbucks also announced pay increases, saying all its U.S. workers will earn at least \$15 -- and as much as \$23 -- per hour by next summer.

But backers of the union say Starbucks can do more. "If Starbucks can find the money to pay their CEO nearly \$15 million in compensation, I think maybe they can afford to pay their workers a decent wage with decent benefits," U.S. Sen. Bernie Sanders, a Vermont Independent, said in a recent Twitter post.

John Golper, management-side attorney, of counsel at Balard, Rosenberg, Golper and Savitt, LLP, said he "is not surprised by the Union's victory, since any work force that feels slighted by the companies response during Covid is ripe fodder for union organization."

The Starbucks vote comes against the backdrop of a time of heightened labor unrest in the U.S. Striking cereal workers at Kellogg Co. rejected a new contract offer earlier this week. Thousands of workers were on strike at Deere & Co. earlier this fall. The NLRB recently approved a redo of a union vote at an Amazon warehouse in Alabama after finding the company pressured workers to vote against the union.

Although the Starbucks baristas have won the first battle, they still have a long way to go to win the war and obtain a contract from Starbucks. The National Labor Relations Act requires the employer to bargain in good faith with the union (NLRA Section 8(a)5), but it cannot compel Starbucks to reach an agreement. At this time, labor shortages are giving workers a rare upper hand in negotiations, and Starbucks' concern about its image will also put added pressure on it to sign a contract.

However, Starbucks may not want to set a precedent for its 9,000 other stores, and fight hard to defeat the union. □