

La Polar Loses in Labor Court: Judge Rejects Bid to Strip Union Protection from Union Leader

El Ciudadano · 9 de octubre de 2025

Chile's First Labor Court ruled that La Polar failed to substantiate the allegations necessary to strip a union leader of legal protection, rejecting the company's desafuero bid.



In a legal setback for Empresas La Polar S.A., the First Labor Court of Santiago rejected□with costs against the plaintiff□the legal action seeking to strip union immunity (desafuero) from the [union leader](#) A.E.M.F.

In its ruling, Judge Pablo Rivera Lucero fully dismissed the retail company□s petition after it failed to substantiate the alleged sales irregularities it attributed to the worker.

The defeat not only prevents La Polar from dismissing the shop steward□whose mandate runs until April 2, 2026□but also exposes serious flaws in the company□s internal procedures, which the Santiago court categorically invalidated.

A flawed investigation

The core of the First Labor Court of Santiago's reasoning centers on the complete lack of solid evidence presented by La Polar and the company's failure to comply with its own internal regulations during the inquiry.

First, Judge Rivera pointed to the absence of crucial documentation supporting the audit report the company used as the basis for its lawsuit.

It is noteworthy to the court that the plaintiff did not submit the documentation that allowed the auditor(s) to reach the report's conclusions—such as the initial emails; the attachments labeled febrero.txt, marzo.txt, abril.txt, and telefoneda.pdf; the Informix database; sales vouchers or other transactional records; or even the defendant's attendance logs to corroborate them. Nor were any proofs offered, for example, to review security camera footage for the dates mentioned in the security report—the ruling noted.

The decision determined that La Polar's internal audit "violates Article 126, second paragraph, of the company's Internal Rules on Order, Hygiene and Safety," which establishes a five-business-day deadline to personally notify the worker under investigation and set dates to hear their account.

Upon receiving a complaint, the investigative committee has five business days from assignment to begin its work. Within the same period, it must notify the parties, personally and/or in writing, that a workplace-harassment inquiry has begun and must immediately set dates to hear from the parties involved so they can provide evidence to support their statements," the court stated.

The ruling delves into this procedural breach, citing testimony from the company's own audit manager:

As the plaintiff's witness B.R.T., the audit manager, testified, once the complaint was received or while the report was being prepared, the defendant worker was not interviewed; and according to the defendant's representative,

M.L.R.Y., she did not know whether the worker was notified of the investigation. This allows the court to conclude that he was not permitted to defend himself against the accusations, or at least to present his version of events, during the internal inquiry...□ it stated.

Given this foundational flaw, the court held that □consequently, the plaintiff cannot invoke the results of a report that failed to respect the procedure established in its own Internal Rules on Order, Hygiene and Safety□a non-compliance which, taken together with the foregoing grounds, necessarily discredits its conclusions.□

La Polar□s allegations and the court□s response

The retailer accused A.E.M.F., a full-service salesperson and union delegate of the National Intercompany Workers□ Union at La Polar in Mall Plaza Norte, of lending his seller card to coworkers. According to La Polar, this allowed the worker to concentrate an anomalous share of sales□reaching 13.8% of the branch total□and benefit from commissions that were not rightfully his, to the detriment of others.

The company□s internal investigation, conducted between May and August 2024, claimed it detected 255 transactions recorded under A.E.M.F. during his meal break or after his shift, for a gross amount of CLP\$34,725,533. It even asserted that during a store visit on July 25, 2024, the seller and two colleagues acknowledged the practice.

However, the court found that these assertions, unsupported by material evidence and obtained through an irregular procedure, had no legal weight. The bench issued a procedural warning (apercibimiento) and treated as proven a fact crucial to the worker□s defense:

After an exhaustive review, the First Labor Court's ruling is clear and decisive: La Polar did not prove the facts it imputed to its employee.

□ In light of the foregoing conclusions and analysis, the only viable finding is that the plaintiff has not credibly established in this trial the facts attributed to the defendant to request his union desafuero; therefore, the claim must be rejected in its entirety, □ it concluded.

aoSee the First Instance Ruling

Fuente: El Ciudadano