

# Labor Law Lessons from Our Favorite Films: Dirty Dancing (Weingarten Rights – Nobody Puts Weingarten In The Corner)

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As noted in our [previous post](#) about *Dirty Dancing*, as part of its investigation into thefts of guests' property, the resort owner interviewed staff dance instructor, Johnny Castle (Johnny denies involvement in the burglaries), to determine whether he had an alibi for the evening when Moe Pressman's wallet was stolen. We now know that Castle responded that he was in his room reading all evening. The resort owner's grandson, Neil Kellerman, found this explanation implausible as there were no books in Castle's room. However, the movie may have ended differently if Johnny had availed himself of rights afforded to him by the Supreme Court's decision in *NLRB v. Weingarten*, 420 U.S. 251, 257 (1975), and its progeny.

For purposes of this analysis, assume that: (1) Johnny was a member of a union (he said his uncle was able to secure him an apprenticeship with a painting union); and (2) *Weingarten* rights existed in 1963 (as noted above, *Weingarten* was decided in 1975).

## The Law

In *Weingarten*, the Supreme Court held an employee who reasonably believes an investigatory interview will result in disciplinary action against him or her has the right, upon request, to be accompanied at that interview by a union representative, usually a co-worker/steward. See *Weingarten*, 420 U.S. at 257. The *Weingarten* right does not prevent an employer from opting not to proceed with the interview and instead simply taking disciplinary action without hearing the employee's explanation.

## The Application

Clearly, Johnny's explanation that he was reading in his room on the night in question, at best, was dubious and, in reality, false. In fact, Johnny's lackluster explanation was the prime motivation behind the resort's decision to terminate his employment (which arguably sets in motion the chain of events that puts Baby in a corner).

In an alternate scene, however, Johnny triggers his *Weingarten* rights by requesting that a

representative be present when he is interviewed by Neil Kellerman. In response, Kellerman's decides not to conduct an interview and simply takes disciplinary action without hearing Johnny's explanations. Accordingly, based exclusively on Moe Pressman's wife's false account of the incident, Johnny is summarily terminated and escorted off the property. Baby never has the opportunity to tell the resort's owner that Johnny was innocent because she was with Johnny the entire night the wallet was stolen. Instead of a final scene where Johnny utters "Nobody puts Baby in the corner..," the movie fast-forwards to a regional office of the National Labor Relations Board where Johnny is seen filing an unfair labor practice charge based upon the events described in last week's post.

Not the perfect Hollywood ending.

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