

Case Study 10-2

On August 15, employees Billie Green, Mary Swallows, Betty Jones, and Edie Barnett lunched together in the company's parking lot. The discussion centered on Barnett's pending grievance concerning her recently completed layoff. Green, a nonunion employee, asked Barnett if she had said that Green had not been laid off because she was providing sexual favors to a supervisor. When Barnett admitted that she had made the comment, Green asserted that Barnett's husband engaged in sexual conduct with Swallows, a union member. Swallows then slapped Green, and Green proposed that they leave the company property to settle the matter. Swallows slapped Green again, and then turned and walked away. Green became infuriated, followed Swallows, and kicked her in the back. The two fought for about four minutes. Later that day, human resource manager Joe Rogalski called Green and Swallows for separate meetings to talk about the incident. Rogalski had talked with witnesses to the incident, and their accounts gave conflicting reports as to who had struck the first blow. Because he could not determine who had started the incident, he had no recourse but to fire both of them. He advised them that they could file a grievance if they chose. At the end of the day, Green and Swallows met at the time clock. Green accused Swallows of lying and told her, "Sooner or later I'll beat the hell out of you." The next day, Green telephoned the plant and told the human resource department's secretary that she was going to file a grievance. The Union Grievance Committee was meeting that morning at the plant cafeteria. Green went to the meeting and spoke with grievance committee members Jack Nolan and Joe Caldwell about filing a grievance. Nolan told her to see union secretary Sue Cogdill. She spoke to Cogdill who told her, "We'll take care of it ... just go up to the cafeteria and wait for me." Earlier that same day, Swallows had met with the Union Grievance Committee in the cafeteria and had given her version of the incident. Green was later asked to give her version to the same group. Green believed that by meeting with the Grievance Committee she had officially filed a grievance. She then left the plant. A week later, Swallows returned to work and Green was told by friends about Swallows's reinstatement. Green went to the plant to inquire about her grievance and was informed that no grievance had been filed on her behalf. She then confronted Cogdill and asked why her grievance had not been filed. Cogdill replied, "That's not normally my duty." Green then spoke to Rogalski, who explained that he could not rehire her because he had no written grievance from her. When she reminded him that she had told him earlier that she wanted to file a grievance, he responded that even if she filed one, it would not have mattered because he and Cogdill had discussed the situation and decided to rehire Swallows. Green believed that her rights under the LMRA had been violated and filed a charge of an unfair labor practice with the NLRB, alleging lack of fair representation by the union.