

FirstService caretaker says he and wife were fired for union activity, wage theft lawsuit

The workers are also losing their housing and say a noncompete clause is stopping them from finding other work

By: [Max Nesterak](#) - February 2, 2023 3:33 pm



Kevin Borowske says he and his wife were fired by FirstService Residential as caretakers of Centre Village condominiums in downtown Minneapolis for organizing for a union. Courtesy photo.

Kevin Borowske and his wife were fired recently by FirstService Residential after a history of organizing workers for fair pay and a union.

He led a class-action lawsuit on behalf of Minnesota caretakers at FirstService — the largest property management company in North America — for wage theft and won a \$225,000 settlement (before attorney fees) last year for 100 workers.

Then, he became one of the leaders of the unionizing campaign by caretakers and desk attendants of condo buildings managed by the company. FirstService has not recognized the union and declined to meet with union leaders.

That's why he wasn't entirely surprised when FirstService fired him and his wife, Larisa, last month, even though Borowske says they were good employees.

They had never been disciplined in their eight years working as caretakers of the Centre Village condominium building in downtown Minneapolis. One year, Borowske was even recognized as an outstanding employee at the company's annual event.

"It's because I'm the face of the union. It's their retaliation against me and my wife. It just has to be. It's the only thing that makes sense," Borowske said.

SEIU Local 26, the union representing FirstService caretakers and desk attendants, filed a complaint with the National Labor Relations Board, which oversees private-sector unions. The union alleges the termination is illegal retaliation against protected labor organizing.

Emails and a call to FirstService Residential were not returned.

In addition to losing their jobs, Borowske and his wife will have to move out of their apartment in Centre Village at the end of the month.

Borowske says they haven't been able to find a new apartment because they aren't currently employed and they haven't been able to find new jobs because of a noncompete clause in their contracts with FirstService.

Finding a similar job would be difficult even without a noncompete clause, since FirstService has contracts with a large share of the condominium associations in the Twin Cities. But the contract guarantees Borowske can't get similar work for the next year.

The employment contract Borowske and other FirstService caretakers signed stipulates that they may not work for "any management company serving condominium associations, homeowner associations, or cooperatives ... in the Twin Cities Metropolitan Area" for a year after leaving the company.

Borowske says people have reached out to offer him work but he's declined.

"I'm afraid to take it, because FirstService can sue me," Borowske said.

The Federal Trade Commission has proposed [a new rule](#) banning employers from forcing workers to sign noncompete agreements, which the agency describes as "a widespread and often exploitative practice that suppresses wages, hampers innovation, and blocks entrepreneurs from starting new businesses."

About [one in five American](#) workers are bound by a noncompete agreement which costs workers more than \$250 billion per year by decreasing competition, according to the FTC.

Democrats at the state Legislature have also introduced a bill ([HF295/SF405](#)) to ban noncompete agreements.

Borowske and his wife took jobs as caretakers with FirstService in 2014 and earned about \$8 an hour to maintain the common areas of the downtown high-rise, including vacuuming the hallways, managing chlorine levels in the pool and hottub, and responding to residents' concerns around the clock.

Their wages have increased along with Minneapolis' minimum wage ordinance to more than \$15 an hour plus free rent of their apartment including utilities.

However, FirstService didn't pay all the overtime wages Borowske earned for years.

Borowske filed his class-action lawsuit against FirstService in federal court in July 2020, alleging the company failed to pay him all the overtime wages he was entitled to. The company said it would pay him time-and-a-half after 30 hours, but only paid him at a higher rate for hours worked beyond 40 hours a week, according to Borowske's complaint.

The company also didn't include the value of his other compensation — rent, utilities, cell phone, etc. — in calculating the overtime rate as required by law.

Borowske said he and his wife received \$15,000 for two years of unpaid wages through the settlement, which was approved by a judge in January 2022.

In June 2022, FirstService workers at condo buildings across the Twin Cities [went public](#) with their effort to unionize with SEIU Local 26. Borowske has been active in that campaign and participated in a [two-day strike](#) last October in an effort to force the company to negotiate a process for workers to hold a union election free from interference or harassment.

This week, the NLRB ruled there was merit to a complaint filed by SEIU Local 26 that a manager at Centre Village asked workers to sign a form saying they would not talk about working conditions with one another. The NLRB will next decide whether to settle the complaint with FirstService or bring a lawsuit.

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