

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CRESCENT METAL PRODUCTS, INC.

and

Case 8--CA--23014

NATIONAL PRODUCTION WORKERS,  
LOCAL 707 OF CLEVELAND

DECISION AND ORDER

*By Members Devaney, Oviatt, and Raudabaugh*

Upon a charge and amended charge filed by the Union, National Production Workers, Local 707 of Cleveland, on September 5 and October 15, 1990, the General Counsel of the National Labor Relations Board issued a complaint on October 19, 1990,<sup>1</sup> against Crescent Metal Products, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charges and complaint, the Respondent has failed to file an answer.

On December 4, the General Counsel filed a Motion for Summary Judgment. On December 6, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

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<sup>1</sup> All dates refer to 1990 unless otherwise indicated.

## Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board." Further, the undisputed allegations in the Motion for Summary Judgment disclose that counsel for the General Counsel, by letter dated November 9, notified the Respondent that unless an answer was received by November 16, a Motion for Summary Judgment would be filed. The undisputed allegations also disclose that counsel for the General Counsel, by letter dated November 16, notified the Respondent that unless an answer was received by November 26, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

## Findings of Fact

## I. Jurisdiction

The Respondent, an Ohio corporation, with an office and place of business in Cleveland, Ohio, is engaged in the manufacture of food handling equipment for the restaurant industry. Annually, the Respondent, in the course and conduct of its business operations, sold and shipped from its Cleveland, Ohio facility products, goods, and materials valued in excess of \$50,000 directly to points outside the State of Ohio. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the

Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

### Refusal to Bargain

On March 13, 1990, the Union was certified as the collective-bargaining representative of the employees in the following appropriate unit:

All production and maintenance employees employed by the Employer at its place of business located at 12711 Taft Avenue, Cleveland, Ohio, but excluding all office clerical employees, engineers, salesmen, office employees, watchmen, and all professional employees, guards and supervisors as defined in the Act.

Since March 13, 1990, and at all times material, the Union has been, and is, by virtue of Section 9(a) of the Act, the exclusive collective-bargaining representative of these employees.

On or about February 5, 1990, the Union requested the Respondent to bargain collectively with it as the exclusive collective-bargaining representative of the employees in the unit with respect to their rates of pay, wages, hours of employment, and other terms and conditions of employment.

At material times during the months of February, March, April, and June 1990, the Respondent and the Union met for the purposes of engaging in negotiations with respect to wages, hours, and other terms and conditions of employment for the appropriate unit of employees. During that period, the Respondent failed and refused to meet from April 17 to June 26; failed to invest its negotiators with sufficient authority; and repudiated all agreements tentatively agreed to by its negotiators. Also, since on or about June 27, the Respondent has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit employees.

By its overall acts and conduct, including the conduct described above, the Respondent has failed and refused to recognize and bargain collectively with the Union in good faith as the exclusive collective-bargaining representative of the unit employees, in violation of Section 8(a)(5) and (1) of the Act.

#### Conclusions of Law

By failing and refusing to meet with the Union from April 17 to June 26, 1990, failing to invest its negotiators with sufficient authority, repudiating all agreements tentatively agreed to by its negotiators, and by failing and refusing to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit employees since on or about June 27, 1990, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

#### Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

We shall order the Respondent to cease and desist from refusing to recognize and bargain with the Union in good faith, including by failing and refusing to meet with the Union, by failing to invest its negotiators with sufficient authority, and by repudiating all agreements tentatively agreed to by its negotiators.

We shall order the Respondent to recognize and bargain in good faith with the National Production Workers, Local 707 of Cleveland, in the appropriate collective-bargaining unit and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. Mar-Jac Poultry Co., 136 NLRB 785 (1962); Lamar Hotel, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); Burnett Construction Co., 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Crescent Metal Products, Inc., Cleveland, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain collectively with the National Production Workers, Local 707 of Cleveland, as the exclusive collective-bargaining representative of its employees in the following appropriate unit:

All production and maintenance employees employed by the Employer at its place of business located at 12711 Taft Avenue, Cleveland, Ohio, but excluding all office clerical employees, engineers, salesmen, office employees, watchmen, and all professional employees, guards and supervisors as defined in the Act.

(b) Refusing to bargain collectively with the National Production Workers, Local 707 of Cleveland, by failing and refusing to meet with the Union, failing to invest its negotiators with sufficient authority, and by repudiating all agreements tentatively agreed to by its negotiators.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement.

(b) Post at its facility in Cleveland, Ohio, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director of Region 8, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

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<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(c) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. January 18, 1991

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Dennis M. Devaney, Member

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Clifford R. Oviatt, Jr., Member

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John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to recognize and bargain collectively with the National Production Workers, Local 707 of Cleveland, as the exclusive collective-bargaining representative of our employees in the following appropriate unit:

All production and maintenance employees employed by the Employer at its place of business located at 12711 Taft Avenue, Cleveland, Ohio, but excluding all office clerical employees, engineers, salesmen, office employees, watchmen, and all professional employees, guards and supervisors as defined in the Act.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to meet with the Union, failing to invest our negotiators with sufficient authority, and by repudiating all agreements tentatively agreed to by our negotiators.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, meet and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit concerning their terms and condition of employment and, if an understanding is reached, embody that understanding in a signed agreement.

CRESCENT METAL PRODUCTS INC.  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 1240 E. 9th Street Room 1695, Cleveland, Ohio 44199-2086, Telephone 216--522--3729.