

Fire Sprinkler Installers, Inc. and Road Sprinkler Fitters Local Union No. 669 U.A., AFL-CIO, affiliated with United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States of America and Canada. Case 17-CA-15731

February 28, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

Upon a charge filed by the Union on July 29, 1991, the General Counsel of the National Labor Relations Board issued a complaint on September 30, 1991, against Fire Sprinkler Installers, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint,¹ the Respondent has failed to file an answer.

On January 15, 1992, the General Counsel filed a Motion for Summary Judgment. On January 17, 1992, 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.

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 the allegations in the complaint shall be deemed to be admitted to be true and shall 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 December 19, 1991, notified the Respondent that unless an answer was received by close of business on January 8, 1992, 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.

¹ Copies of the charge and complaint that were sent to Respondent by certified mail were returned to the Regional Office marked "unclaimed." However, the Respondent's failure or refusal to claim certified mail cannot serve to defeat the purposes of the Act. See, e.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, a corporation, with an office and place of business in Hallsville, Missouri, has been engaged as a contractor in the construction industry. Respondent, in the course and conduct of its business operations, annually purchases and receives at its Hallsville, Missouri facility products, goods, and materials valued in excess of \$50,000 from other enterprises located within the State of Missouri, each of which other enterprises had received these products, goods, and materials directly from points outside the State of Missouri. 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

A. *The Unit and the Union's Representative Status*

The following employees of Respondent (the Unit), constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time journeyman sprinkler fitters and apprentices employed by Respondent and engaged in the installation, dismantling, maintenance, repairs, adjustments, and corrections of all fire protection and fire control systems including the unloading, handling by hand, power equipment and installation of all piping or tubing, appurtenances and equipment pertaining thereto, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes and hose connections to sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems, also all tanks and pumps connected thereto, also included shall be CO-2 and Cardox Systems, Dry Chemical Systems, Foam Systems and all other fire protection systems except steam fire protection systems, excluding clerical employees, guards and supervisors within the meaning of the Act.

Since on or about March 22, 1991, the Union and Respondent entered into an agreement, entitled "Assent and Interim Agreement," wherein Respondent acknowledged having verified the

Union's status as the exclusive bargaining representative of its employees pursuant to Section 9(a) of the Act and agreed to be bound by the terms and conditions of any new National Construction Agreement reached between the Union and the National Fire Sprinklers Association (NFSA), amending and/or modifying the 1988-1991 National Construction Agreement between the Union and NFSA.

By Virtue of the terms of the "Assent and Interim Agreement," referred to above, Respondent became bound to the terms of the National Construction Agreement between the Union and the NFSA, effective April 1, 1991, to March 31, 1994.

At all times since on or about March 22, 1991, the Union, by virtue of Section 9(a) of the Act, has been, and is, the exclusive representative of the Unit for purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

B. *The Violations*

On or about July 2, 1991, the Union, by letter, requested Respondent to furnish the Union with the following information in support of a grievance filed by the Union alleging that Respondent is employing nonunit employees to perform unit work: "the names; social security numbers; address of record; hours worked; rate of pay; and amount of travel and/or expenses on each job for those individuals employed by your company since September 1, 1990; as well as the name, location and number of hours worked by them on each job where they were employed."

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its function as the exclusive collective-bargaining representative of the Unit.

Since on or about July 2, 1991, Respondent has failed and refused to furnish the Union the information requested by it as described above, and has thereby violated Section 8(a)(1) and (5) of the Act.

CONCLUSIONS OF LAW

By failing and refusing to furnish the Union with the information it requested on July 2, 1991, which information is relevant and necessary to the Union's role as the exclusive collective-bargaining representative of the Unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent had 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.

Having found that the Respondent violated Section 8(a)(1) and (5) of the Act by refusing to furnish the Union relevant and necessary information, we shall order the Respondent to provide such information to the Union on request.

ORDER

The National Labor Relations Board orders that the Respondent, Fire Sprinkler Installers, Inc., Hallsville, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the Unit.

(b) 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, furnish the Union the information it requested on July 2, 1991, which is relevant and necessary to its role as the exclusive bargaining representative of the Unit.

(b) Post at its facility in Hallsville, Missouri, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 17, 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.

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

² 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."

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 or refuse to provide Road Sprinkler Fitters Local Union No. 669 U.A., AFL-CIO, affiliated with United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States of America

and Canada with information that is relevant and necessary to the performance of its functions as the exclusive collective-bargaining representative of the Unit.

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, furnish the Union the information it requested on July 2, 1991, which is relevant and necessary to its role as the exclusive bargaining representative of the Unit.

FIRE SPRINKLER INSTALLERS, INC.