

**General Mason Contractors, Inc. and Bricklayers
and Allied Craftsmen, Local 6. Case 34-CA-
5704**

September 22, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

Upon a charge filed by the Union May 28, 1992, the General Counsel of the National Labor Relations Board issued a complaint, compliance specification, and notice of hearing on July 7, 1992, against General Mason Contractors, 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, complaint, and compliance specification, the Respondent failed to file an answer.

On August 24, 1992, the General Counsel filed a Motion for Summary Judgment. On August 25, 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

Pursuant to Sections 102.20, 102.21, and 102.56 of the Board's Rules and Regulations, the complaint and compliance specification notified the Respondent that unless an answer was filed within 21 days of service, "all the allegations in the complaint and compliance specification shall be considered 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 the Regional attorney, by letter dated August 3, 1992, notified the Respondent that unless an answer was received by close of business August 10, 1992, a Motion for Summary Judgment would be filed. No answer has been filed to date.

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, a Connecticut corporation with an office and place of business in Hartford, Connecticut, has been engaged as a contractor in the building and construction industry. During the 12-month period ending May 31, 1992, the Respondent, in the course and

conduct of its business operations, purchased and received at its State of Connecticut jobsites, products, goods, and materials valued in excess of \$50,000 from other enterprises, including Mack Brick Company, located within the State of Connecticut, which had received such products, goods and materials directly from points outside State of Connecticut. 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

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

All bricklayers employed by Respondent; but excluding all other employees, and all guards, professional employees and supervisors as defined in the Act.

About February 18, 1992, Respondent entered into an "Acceptance of Agreement" whereby it accepted and approved the collective-bargaining agreement between the Union and the Labor Relations Division of the Associated General Contractors of Connecticut, Inc. (the AGC) effective April 1, 1990, through March 31, 1993. The same day, the Respondent, an employer engaged in the building and construction industry, also granted recognition to the Union and since said date the Union has been recognized as such representative by the Respondent without regard to whether the majority status of the Union had ever been established under the provisions of Section 9 of the Act.

For the period from February 18, 1992, through March 31, 1993, based on Section 8(f) of the Act, the Union has been the limited exclusive Section 9(a) collective-bargaining representative of the unit.

About March 1, 1992, the Respondent unilaterally and without the consent of the Union failed to continue in full force and effect all the terms and conditions of the collective-bargaining agreement by failing to make the contractually required contributions to the Health Fund, the Connecticut Bricklayers Pension Fund, the International Union Pension Fund, and the Apprenticeship Training Fund, and by failing to pay the contractually required wage rate.

The subjects set forth above relate to wages, hours, and other terms and conditions of employment of the unit and are mandatory subjects for the purposes of collective bargaining. The Respondent engaged in the conduct described above without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct.

CONCLUSION OF LAW

By failing since March 1, 1992, to make contractually required benefit fund contributions or to pay the contractually required wage rate, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5), Section 8(d), 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. Specifically, the Respondent shall be ordered to fully comply with the wage and benefit fund provisions of the collective-bargaining agreement and to make whole the unit employees and benefit funds for its failure to do so by paying to the employees and benefit funds the amounts set forth in the compliance specification, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholding required by Federal and state laws.

ORDER

The National Labor Relations Board orders that the Respondent, General Mason Contractors, Inc., Hartford, Connecticut, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to make the contractually required contributions to the Health Fund, the Connecticut Bricklayers Pension Fund, the International Union Pension Fund, and the Apprenticeship Training Fund, and failing to pay the contractually required wage rate.

(b) Failing and refusing to bargain collectively and in good faith with the collective-bargaining representative of its employees in the following appropriate unit:

All bricklayers employed by Respondent; but excluding all other employees, and all guards, professional employees and supervisors as defined in the Act.

(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) Comply with the wage and benefit fund provisions of the collective-bargaining agreement by paying to the unit employees and funds the amounts set forth

in the compliance specification as set forth in the remedy section of this decision.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, time-cards, personnel records and reports, and all other records necessary to ensure compliance with this Order.

(c) Post at its facility in Hartford, Connecticut, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 34, 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.

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

¹ 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 bargain collectively with Bricklayers and Allied Craftsmen, Local 6 by failing to make contractually required contributions to the Health Fund, the Connecticut Bricklayers Pension Fund, the International Union Pension Fund, and the Apprenticeship Training Fund, and failing to pay the contractually required wage rate.

WE WILL NOT fail and refuse to bargain collectively and in good faith with the Union as the limited exclusive collective-bargaining representative of our employees in the following appropriate unit:

All bricklayers employed by us; but excluding all other employees, and all guards, professional employees and supervisors as defined in the Act.

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 fully comply with the wage and benefit fund provisions of the collective bargaining agreement

and make our Unit employees and the benefit funds whole by paying to them the amounts which have not been paid, with interest.

GENERAL MASON CONTRACTORS, INC.