

**Rumford Steel Industries, Inc. and Local Union
4652-J, United Steelworkers of America, AFL-
CIO, CLC. Case 1-CA-29367**

August 31, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

Upon a charge filed by Local Union 4652-J, United Steelworkers of America, AFL-CIO, CLC (the Union), the General Counsel of the National Labor Relations Board issued a complaint on June 22, 1992, against Rumford Steel Industries, 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 charge and complaint, the Respondent has failed to file an answer.

On August 10, 1992, the General Counsel filed a Motion for Summary Judgment. On August 11, 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 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 Region, by letter dated July 15, 1992, notified the Respondent that unless an answer was received no later than close of business July 22, 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.

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 Providence, Rhode Island, has been engaged in the business of steel fabrication. During the 12-month period immediately preceding June

22, 1992, the Respondent sold and shipped goods valued in excess of \$50,000 directly to points located outside the State of Rhode Island. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(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 constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All regular full-time and part-time production and maintenance employees employed by Respondent at its plant located at 33 Acorn Street, Providence, Rhode Island, but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

Since in or about 1978, the Union has been the designated exclusive collective-bargaining representative of the employees in the unit and since that date the Union has been recognized as such representative by the Respondent. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from September 1, 1989, to August 31, 1992 (1989-1992 agreement). At all times since 1978, based on Section 9(a) of the Act, the Union has been, and is, the exclusive collective-bargaining representative of the employees in the unit.

The 1989-1992 agreement provides at article XVI, "Group Insurance," that the Respondent shall pay the full cost of Blue Cross/Blue Shield Plan "100," or any other health insurance plan offered by the Respondent other than Blue Cross/Blue Shield, for participating employees and their dependents. Donald Bollin, an employee of the Respondent, was insured by Harvard Community Health Plan, an insurance plan offered by the Respondent. About January 31, 1992, the Respondent failed to continue in effect all the terms and conditions of the 1989-1992 agreement in that it ceased making payments to the Harvard Community Health Plan.

The Respondent engaged in this conduct without the Union's consent. The Respondent's conduct involves a mandatory subject for the purpose of collective bargaining.

CONCLUSION OF LAW

By failing to honor article XVI of the 1989-1992 agreement, 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.

Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by failing to make contractually required payments for health insurance, we shall order the Respondent to make whole its unit employees by making all payments that have not been made and that would have been made but for the Respondent's unlawful failure to make them, including any additional amounts applicable to such delinquent payments as determined in accordance with the criteria set forth in *Merryweather Optical Co.*, 240 NLRB 1213 (1979). In addition, the Respondent shall reimburse unit employees for any expenses ensuing from its failure to make such required payments, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enfd. 661 F.2d 940 (9th Cir. 1981), such amounts to be computed in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Rumford Steel Industries, Inc., Providence, Rhode Island, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to honor the terms of article XVI of its 1989–1992 agreement by failing to make payments to the Harvard Community Health Plan.

(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) Honor all the terms and conditions of employment of the 1989–1992 agreement with the Union, the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All regular full-time and part-time production and maintenance employees employed by Respondent at its plant located at 33 Acorn Street, Providence, Rhode Island, but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

(b) Honor the terms of article XVI of the 1989–1992 agreement by making all contractually required payments to the Harvard Community Health Plan.

(c) Make unit employees whole for any losses they have suffered as a result of its failure to honor the

terms of article XVI as described in the remedy section of this decision.

(d) 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 analyze the amounts due under the terms of this Order.

(e) Post at its facility in Providence, Rhode Island, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 1, 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.

(f) 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 refuse to bargain collectively with Local Union 4652-J, United Steelworkers of America, AFL–CIO, CLC, as the exclusive collective-bargaining representative of our employees in the following appropriate unit:

All regular full-time and part-time production and maintenance employees employed at our plant located at 33 Acorn Street, Providence, Rhode Island, but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

WE WILL NOT refuse to honor the terms and conditions of the 1989–1992 agreement with the Union by failing to make all payments required pursuant to article XVI, Group Insurance.

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 honor all the terms and conditions of the 1989–1992 agreement with the Union including making all contractually required payments pursuant to article XVI, Group Insurance.

WE WILL make our unit employees whole for any loss of benefits or other expenses suffered as a result of our failure to honor article XVI, Group Insurance.

RUMFORD STEEL INDUSTRIES, INC.