

**Dalling Construction, Inc. and Connecticut Laborers' Funds a/w Laborers' International Union of North America, AFL-CIO. Case 34-CA-5442**

March 31, 1993

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

On March 17, 1992, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, ordering Dalling Construction, Inc. to tender all contractually required fringe benefit fund contributions that were not paid on behalf of employees as a result of the Respondent's unfair labor practices in violation of Section 8(a)(5) and Section 8(d) of the National Labor Relations Act. On October 23, 1992, the United States Court of Appeals for the Second Circuit entered its judgment enforcing in full the Board Order.

A controversy having arisen over the amount of backpay due, on January 29, 1993, the Regional Director for Region 34, issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated February 23, 1993, the Regional attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business March 2, 1993, summary judgment would be sought. The Respondent filed no answer.

On March 5, 1993, the General Counsel filed with the Board a Motion for Summary Judgment and for Issuance of Board Supplemental Decision and Order, with exhibits attached. On March 10, 1993, 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 again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

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

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the benefit funds is as stated in the compliance specification and we will order payment by the Respondent to the benefit funds.

**ORDER**

The National Labor Relations Board orders that the Respondent, Dalling Construction, Inc., Bridgeport, Connecticut, its officers, agents, successors, and assigns, make payments on behalf of its employees to the Connecticut Laborers Health Fund, Connecticut Laborers Pension Fund, Connecticut Laborers Annuity Fund, and New England Laborers Training Fund for the contractually required contributions as set forth in the compliance specification, by paying them the amount set forth below, plus interest:

Connecticut Laborers Health Fund	\$35,965
Connecticut Laborers Pension Fund	20,062
Connecticut Laborers Annuity Fund	19,495
New England Laborers Training Fund	2,599

<sup>1</sup>306 NLRB No. 140.