

**Lokklynn, Inc. and Amalgamated Clothing & Textile Workers Union, Northern District Joint Board. Case 18-CA-11847**

**SUPPLEMENTAL DECISION AND ORDER**

**BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH**

On February 20, 1992, the National Labor Relations Board issued a Decision and Order in this case<sup>1</sup> finding that Lokklynn, Inc., the Respondent, violated Section 8(a)(5) and (1) of the National Labor Relations Act by failing to bargain with the Union over the effects on unit employees of the discontinuation and closing of its Chisolm, Minnesota facility, by failing to pay unit employees their earned and accrued vacation pay, and by failing to provide the Union with necessary and relevant information. The Board, inter alia, ordered the Respondent to make unit employees whole by paying them limited backpay in the manner prescribed in *Transmarine Navigation Corp.*, 170 NLRB 389 (1968), and to make them whole for any losses resulting from its failure to pay unit employees their earned and accrued vacation pay.

A controversy having arisen over the amounts due under the terms of the Board's Order, the Regional Director for Region 18 issued a compliance specification and notice of hearing alleging the amounts due pursuant to the 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.<sup>2</sup>

By certified letter dated March 19, 1993, counsel for the General Counsel advised the Respondent's president, Donald C. Lokken, of the Respondent's failure to file an answer to the compliance specification and that unless an answer was received by close of business March 26, 1993, a Motion for Default Summary Judgment would be filed.<sup>3</sup> The Respondent filed no answer to the specification.

On May 17, 1993, counsel for the General Counsel filed a Motion for Default Summary Judgment with the Board, and a supporting memorandum with exhibits attached. On May 20, 1993, the Board issued an order transferring proceeding to the Board and Notice to

Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion are therefore undisputed.

**Ruling on the Motion for Default 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 in the Motion for Default 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 Default Summary Judgment. Accordingly, we conclude that the backpay and other reimbursements due unit employees is as stated in the compliance specification, and shall order payment by the Respondent of those amounts.

**ORDER**

The National Labor Relations Board orders that the Respondent, Lokklynn, Inc., Chisolm, Minnesota, its officers, agents, successors, and assigns, shall make whole unit employees named in Appendix A of the compliance specification by paying them the amounts set forth next to their names, with interest accrued to the date of payment, computed in accordance with *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus the tax withholdings required by Federal and state law.

Dated, Washington, D.C. June 15, 1993

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John Neil Raudabaugh, Member

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<sup>1</sup>306 NLRB No. 69. On November 11, 1992, the United States Court of Appeals for the Eighth Circuit entered a judgment enforcing the Board's Order.

<sup>2</sup>Postal receipts show that the Respondent received the copy of the compliance specification on March 1, 1993.

<sup>3</sup>The Respondent apparently chose not to pick up its certified mail until April 6, 11 days after the extended deadline given to the Respondent in which to file an answer. Since then, however, it has made no effort, nor given any indication of any intention, to file an answer. In any event, a respondent's failure or refusal to claim certified mail cannot serve to defeat the purposes of the Act. *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).