

**BC Industries, Inc., and Premiere Concrete Products, Inc. and Teamsters Local Union No. 789, a/w International Brotherhood of Teamsters, AFL-CIO.**<sup>1</sup> Cases 6-CA-21393, 6-CA-21851, and 6-CA-21928

#### SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

On July 13, 1992, the National Labor Relations Board issued a Decision and Order, inter alia, ordering BC Industries, Inc., and Premiere Concrete Products, Inc., the Respondent, to pay its laid-off employees backpay to remedy its unfair labor practices in violation of the National Labor Relations Act.<sup>2</sup> On December 28, 1992, the United States Court of Appeals for the Fourth Circuit entered its amended judgment enforcing the backpay provisions of the Board's decision.

A controversy having arisen over the amount of backpay due discriminatees, on April 16, 1993, the Regional Director for Region 6 issued a backpay 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 backpay specification, the Respondent has failed to file an answer.

By letter dated May 11, 1993, the Regional Attorney advised the Respondent and their counsel that the Respondent's answer, which was due on May 7, 1993, had not been received, and that unless an appropriate answer was filed by the close of business on the third business day following receipt of the letter, summary judgment would be sought. The Respondent filed no answer.

On May 24, 1993, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On May 26, 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 backpay specification are therefore undisputed.

#### 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 specifica-

<sup>1</sup> On November 1, 1987, the Teamsters International Union was readmitted to the AFL-CIO. Accordingly, the caption has been amended to reflect that change.

<sup>2</sup> 307 NLRB No. 192

tion. 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 backpay specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the backpay specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the backpay specification and we will order payment of those amounts by the Respondent to the discriminatees.

#### ORDER

The National Labor Relations Board orders that the Respondent, BC Industries, Inc., and Premiere Concrete Products, Inc., Fairmont, West Virginia, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws:

Fred Bennet	\$740.00
Henry Hart	740.00
Michael John	740.00
Robert Kinsley	740.00
Dale Kisner	740.00
Daniel Lynch	740.00
Luther Lynch	740.00
Robert Tomago	740.00
Harlen Miller	740.00

Dated, Washington, D.C. June 28, 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

(SEAL) NATIONAL LABOR RELATIONS BOARD