

**National Coal, Inc. and United Mine Workers of America. Case 9-CA-29238**

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

On May 7, 1992, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> inter alia, ordering National Coal, Inc., to make whole certain of its unit employees for any losses they may have incurred as a result of the Respondent's failure to provide them with the contractually required health insurance benefits as required by the 1988 National Bituminous Coal Wage Agreement, in violation of the National Labor Relations Act. The Board's Order was enforced in full by the United States Court of Appeals for the Fourth Circuit on October 1, 1992.

A controversy having arisen over the amount of medical expenses and other benefits due discriminatees, on June 7, 1993, the Regional Director for Region 9 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 April 28, 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 May 5, 1993, summary judgment would be sought. The Respondent filed no answer.

On June 7, 1993, the General Counsel filed with the Board a Motion to Transfer Proceedings to the Board and Motion for Summary Judgment, with exhibits attached. On June 9, 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.

**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 net amounts due the employees for medical benefits is as stated in the compliance specification and we will order payment by the Respondent to the employees.

**ORDER**

The National Labor Relations Board orders that the Respondent, National Coal, Inc., Holden, West Virginia, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

Timmy E. Cook	\$86.99
Richard K. Curry	127.61
Charles M. Cutlip	223.30
Burl E. Dumire	113.50
Harold E. Dumire	100.85
Danny R. Hall	2,856.21
Willard A. Horton	432.50
Harold McGraw	5,862.75
Orville Napier Jr.	1,233.69
Larry D. Shaw	217.23
John W. Wright	475.10
<b>Total</b>	<b>\$11,729.73</b>

Dated, Washington, D.C. July 13, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>1</sup> 307 NLRB No. 78.