

A & C Transport, Inc. and District 29, United Mine Workers of America. Case 9-CA-27951

DECISION AND ORDER

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

On November 7, 1991, the National Labor Relations Board issued an Order adopting, in the absence of exceptions, the decision of the administrative law judge, directing A & C Transport, Inc., the Respondent, *inter alia*, to make whole unit employees for any loss of earnings or benefits resulting from its unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the National Labor Relations Act. On July 15, 1992, the United States Court of Appeals for the Fourth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due employees, on March 18, 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 June 1, 1993, counsel for the General Counsel 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 June 8, 1993, summary judgment would be sought. The Respondent filed no answer.

On June 14, 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 16, 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 backpay due the employees is as stated in the compliance specification and we will order payment of such amounts by Respondent.

ORDER

The National Labor Relations Board orders that the Respondent, A & C Transport, Inc., Narrows, Virginia, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest, minus tax withholdings required by Federal and state laws:

<i>NAME</i>	<i>NET BACKPAY</i>	<i>MEDICAL BENEFITS</i>
Richard A. Addair	\$34,214.79	\$120.00
Eddie Kennedy	46,779.94	315.00
John W. Rose	32,437.03	713.05
Freddie W. Dawson	80,570.15	- 0 -
Charles K. Walker	25,876.24	- 0 -
TOTAL	\$219,878.15	\$1,148.05

Dated, Washington, D.C. July 19, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD