

Stack Contracting Services, Inc. and Connecticut Laborers' Fund a/w Laborers' International Union of North America, AFL-CIO. Case 34-CA-5726

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On November 18, 1992, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Stack Contracting Services, Inc. to make whole certain of its unit employees and benefit funds for losses resulting from its failure to continue in effect all the terms and conditions of the agreement with the Union in violation of the National Labor Relations Act. On March 9, 1993, the United States Court of Appeals for the Second Circuit enforced the Board's Order in its entirety.

A controversy having arisen over the amount of backpay due discriminatees, on May 24, 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 June 15, 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 June 22, 1993, summary judgment would be sought. The Respondent filed no answer.

On June 28, 1993, the General Counsel filed with the Board a Motion for Summary Judgment and for issuance of a Board Supplemental Decision and Order, with exhibits attached. On June 29, 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

¹ 309 NLRB No. 79.

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 owed the benefit funds for the periods stated are as stated in the compliance specification and we will order payment by the Respondent to the funds.

ORDER

The National Labor Relations Board orders that the Respondent, Stack Contracting Services, Inc., Watertown, Connecticut, its officers, agents, successors, and assigns, shall make whole the represented employees by making contributions to the benefit funds as set forth in the compliance specification, with interest on said amounts to the date of payment.

Dated, Washington, D.C. July 27, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD