

Paul S. Yoney, Inc. and Local 173 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States of America and Canada, AFL-CIO. Case 34-CA-5747

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On September 30, 1992, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Paul S. Yoney, Inc. to make whole its unit employees for loss of benefits resulting from its failure to make contractually required contributions to the Local 173 Health Fund, the Connecticut Plumbers and Pipefitters Pension Fund, the Plumbers and Pipefitters National Pension Fund, and the Local 173 Apprentice and Journeymen Training Fund in violation of Section 8(a)(1) and (5) of the National Labor Relations Act. On March 2, 1993, the United States Court of Appeals for the Second Circuit issued its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on May 27, 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 21, 1993, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by July 2, 1993, summary judgment would be sought. The Respondent filed no answer.

On July 12, 1993, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On July 14, 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.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

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 amount due is as stated in the compliance specification and we will order payment by the Respondent of the amounts set forth below, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Paul S. Yoney, Inc., Bridgeport, Connecticut, its officers, agents, successors, and assigns, shall pay the amounts set forth below, plus interest:

Local 173 Health Fund	\$7,975.00
Connecticut Plumbers and Apprentices Fund	3,680.00
Plumbers and Pipefitters National Pension Fund	3,190.00
Local 173 Apprentice and Journeymen Training Fund	490.00

Dated, Washington, D.C. August 17, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ 308 NLRB No. 170.