

Esquire Enterprises, Inc. and Rhode Island Laborers' District Council, Laborers' International Union of North America, AFL-CIO. Case 1-CA-29075

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On July 9, 1992, the National Labor Relations Board issued a Decision and Order,¹ inter alia, directing Esquire Enterprises, Inc., to make whole certain of its bargaining unit employees whole by paying them sick leave pay that was not paid in September, October and November 1991, and the holiday pay and vacation pay that was not paid in November 1991, as required by the collective-bargaining agreement in violation of the National Labor Relations Act. On December 31, 1992, the United States Court of Appeals for the First Circuit issued an order and judgment enforcing the Board's Order.

A controversy having arisen over the amounts due its employees on July 20 and 22, 1993, the Regional Director for Region 1 issued a compliance specification and notice of hearing and an amended compliance specification and notice of hearing, respectively, 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 and amended compliance specification, the Respondent has failed to file an answer.

On August 16, 1993, the General Counsel filed with the Board a Motion to Transfer Proceeding to the Board and for Summary Judgment, with exhibits attached. On August 19, 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 and amended compliance specification are therefore undisputed.

Ruling on 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

¹ 307 NLRB No. 180.

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

ORDER

The National Labor Relations Board orders that the Respondent, Esquire Enterprises, Inc., Springfield, Massachusetts, and Johnston, Rhode Island, 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), minus tax withholdings required by Federal and state laws:

Hugh Cabana Sr.	\$1,044.48
Robert Harnois	1,044.48
Robert McSparren	1,305.60
Vincent Muratore	261.12
Michael Panozzi	1,392.64
Manuel Vargas	1,479.68
John Vitucci	1,044.48
Kenneth Williams	174.08

Total: \$7,746.56

Dated, Washington, D.C.

September 16, 1993

James M. Stephens, Chairman

Dennis M. Devaney, Member

John Neil Raudabaugh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD