

Laborers Local No. 135 (Bechtel Power Corporation and General Building Contractors Association) and Andrew Huggins and Judith B. Chomsky. Cases 4-CB-4204 and 4-CB-4256

November 23, 1993

THIRD SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On May 28, 1993, the National Labor Relations Board issued a Second Supplemental Decision and Order in this proceeding.¹ In that decision, the Board granted in its entirety the General Counsel's Motion for Summary Judgment regarding the backpay claims on behalf of Wilson Bradley and Randy Huggins. The Board also granted summary judgment regarding the claims on behalf of Harold Coates, Fred Gray, Andrew Huggins, Roy Poorman, and George Scott except concerning the issue of their interim earnings for certain specified quarters. The Board remanded the proceeding to the Regional Director for the purpose of arranging for a hearing on the issue of interim earnings for those claimants for the specified time periods, and for the final computation of make-whole relief for each of the seven discriminatees.²

On August 9, 1993, the General Counsel filed a motion for issuance of final order with the Board, with attachments. The General Counsel advised the Board that the Charging Parties and Coates, Gray, A. Huggins, Poorman, and Scott, through their attorney, had waived any claims for backpay for the time periods specified in the Board's Second Supplemental Decision and Order. Because the only issues to be decided on remand were the amounts of interim earnings for those discriminatees for the specified quarters, and their net backpay, if any, for those time periods, the General Counsel argued that there was no further need for a hearing on remand. Accordingly, the General Counsel moved that the Board issue a final Order reflecting the make-whole relief owed to all of the discriminatees, as computed in the motion.

On September 20, 1993, the Board issued a Notice to Show Cause why the Board should not grant the General Counsel's motion and issue a final order containing the amounts owed to each discriminatee, as claimed by the General Counsel.³ The Respondent

filed a response, and the General Counsel and the Charging Parties filed replies.

We agree with the General Counsel and the Charging Parties that the Respondent's response does not address the subject of the Notice to Show Cause, i.e., whether the Board should issue a final order awarding the amounts of make-whole relief claimed in the General Counsel's corrected motion. Instead, the Respondent reiterates many of the same arguments the Board has rejected as either lacking in merit or as not having been raised in a timely fashion. Indeed, the Respondent has attached to its response a copy of its answer to an earlier Motion for Summary Judgment, even though the Board previously rejected that answer as untimely filed.⁴ Accordingly, the Respondent has not shown good cause why the Board should not grant the General Counsel's motion. Therefore, we shall issue the order as requested.

ORDER

The National Labor Relations Board orders that the Respondent, Laborers Local No. 135, its officers, agents, and representatives, shall pay the following amounts, plus interest,⁵ to the following discriminatees (or, in the cases of Wilson Bradley and Roy Poorman, who are deceased, to their representatives):

Wilson Bradley	Backpay	\$3,599.40
	Pension Credits	584.78
Harold Coates	Backpay	\$17,063.54
	Pension Credits	3,282.62
	Vacation Pay	133.57
Fred Gray	Backpay	\$18,438.64
	Pension Credits	7,909.23
	Vacation Pay	404.75
Andrew Huggins	Backpay	\$42,241.55
	Pension Credits	4,927.31
	Vacation Pay	154.32
Randy Huggins	Backpay	\$1,435.21
	Pension Credits	116.14
Rita McMillan	Backpay	\$27,161.73
	Pension Credits	2,262.65
Roy Poorman	Backpay	\$37,244.96
	Pension Credits	4,708.74
	Vacation Pay	280.42
George Scott	Backpay	\$32,068.10
	Pension Credits	4,431.30
	Vacation Pay	272.21
	Medical Expenses	2,215.25

IT IS FURTHER ORDERED that the attachment to the Respondent's response to the Notice to Show Cause is stricken from the response.

¹ 311 NLRB 617.

² The claims for an eighth discriminatee, Rita McMillan, had been finally computed in an earlier decision. 301 NLRB 1066 (1991).

³ The Board noted that the General Counsel had inadvertently stated the amounts waived for Poorman for the wrong quarter. The Board identified the correct amounts waived for Poorman and the total claims consequently made on his behalf.

⁴ 311 NLRB at 617. The General Counsel has moved that the attachment be stricken from the Respondent's response. For reasons too plain to require explanation, we shall grant the motion.

⁵ Interest is to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

MEMBER DEVANEY, dissenting.

I dissented from the Board's granting partial summary judgment and remanding this proceeding in the Second Supplemental Decision and Order and in its

issuance of the Notice to Show Cause. I, therefore, do not join my colleagues in this Third Supplemental Decision and Order.