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Jay D. Reed d/b/a Jay D. Reed Concrete Finishing Company and Jay D. Reed Cement Finishing and Foundation for Fair Contracting of Western Pennsylvania. Case 6-CA-25934

January 31, 1995

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS STEPHENS, COHEN, AND TRUESDALE

On March 31, 1994, the National Labor Relations Board issued a Decision and Order, inter alia, ordering Jay D. Reed d/b/a Jay D. Reed Concrete Finishing Company and Jay D. Reed Cement Finishing to make whole certain of its employees for loss of earnings and other benefits resulting from the Respondent's unlawful actions in violation of the National Labor Relations Act.

A controversy having arisen over the amount of backpay due the employees, on November 8, 1994, the Regional Director for Region 6 issued a backpay 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 backpay specification, the Respondent failed to file an answer.

By letter dated December 1, 1994, the Region advised the Respondent that no answer to the backpay specification had been received and that unless an appropriate answer were filed by the third business day following receipt of the letter, summary judgment would be sought. The Respondent filed no answer.

On January 9, 1995, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On January 12, 1995, 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 backpay 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 backpay specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the backpay 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 backpay specification, and we will order payment by the Respondent of those amounts to the employees, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Jay D. Reed d/b/a Jay D. Reed Concrete Finishing Company and Jay D. Reed Cement Finishing, Hopewell, Pennsylvania, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws:

Wayne Gardner	\$ 1344.00
Lee Gardner	1090.00

Dated, Washington, D.C. January 31, 1995

James M. Stephens, Member

Charles I. Cohen, Member

John C. Truesdale, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD