

**Beaumont Glass Company and American Flint
Glass Workers Union, AFL-CIO. Case 6-CA-
24689**

January 20, 1995

DECISION AND ORDER

BY MEMBERS BROWNING, COHEN, AND
TRUESDALE

On May 19, 1993, the National Labor Relations Board issued an Order adopting, in the absence of exceptions, the Decision of the administrative law Judge directing the Respondent, Beaumont Glass Company, Morgantown, West Virginia, to make whole certain of its unit employees for loss of earnings and other benefits resulting from its failure to pay contractually-required vacation benefits in violation of the National Labor Relations Act. On May 9, 1994, the United States Court of Appeals for the Fourth Circuit entered its judgment, enforcing in full the backpay provisions of the Board's Order.

A controversy having arisen over the amount of backpay due the unit employees, on October 20, 1994, the Regional Director for Region 6 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 failed to file an answer.

By letter dated November 8, 1994, the Respondent informed the Union and the Region that the Respondent was closed, had no assets and did not have the financial resources to pay the backpay owed, and advised that the Respondent anticipated that it would not file an answer. By certified letter dated November 14, 1994, the Region advised the Respondent of its obligation to file an answer and informed the Respondent that unless an answer were filed by the third business day after receipt of the letter or unless an extension of time for filing an answer were requested, a Motion for Summary Judgment would be filed with the Board. The Respondent neither filed an answer nor requested an extension of time.

On December 19, 1994, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On December 21, 1994, 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 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,¹ 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 backpay due the unit employees is as stated in the compliance 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, Beaumont Glass Company, Morgantown, West Virginia, its officers, agents, successors, and assigns, shall make whole the employees by paying them the amounts set forth in the compliance specification, plus interest and minus tax withholdings, if any, required by Federal and state laws.

¹ Neither the fact that the Respondent has closed, nor its lack of assets or financial resources to pay the backpay owed constitute good cause for failure to file an answer or is otherwise a basis for denying the Motion for Summary Judgment. See, e.g., *Cornerstone Builders*, 309 NLRB 407 (1992).