

NOTICE: This opinion is subject to formal revision before publication in the Board volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Nevco Mechanical, Inc. and United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Local 741, AFL-CIO.
Case 28-CA-12309

June 30, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND COHEN

On September 27, 1994, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Nevco Mechanical, Inc., the Respondent, to make whole, with interest, employee Gary Woo for loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the National Labor Relations Act. On December 23, 1994, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing an Order of the National Labor Relations Board.

A controversy having arisen over the amount of backpay due the discriminatee, on March 31, 1995, the Regional Director for Region 28 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 May 10, 1995, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer were filed by May 17, 1995, summary judgment would be sought. The Respondent filed no answer.

On June 12, 1995, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On June 13, 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 compliance specification are therefore undisputed.

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

¹ 314 NLRB No. 212.

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 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 backpay due the discriminatee for the period of September 20, 1993, through March 31, 1995, is as stated in the compliance specification and we will order payment by the Respondent of that amount to Gary Woo, plus interest accrued on that amount to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Nevco Mechanical, Inc., Las Vegas, Nevada, its officers, agents, successors, and assigns, shall make whole Gary Woo, by paying him the amount set forth below, plus interest, minus tax withholdings required by Federal and state laws:

\$38,774.00

Dated, Washington, D.C. June 30, 1995

William B. Gould IV, Chairman

James M. Stephens, Member

Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD