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**Riley International Corporation and Thomas H. Wagner. Case 21-CA-29277**

November 27, 1995

**SUPPLEMENTAL DECISION AND ORDER**

BY CHAIRMAN GOULD AND MEMBERS BROWNING  
AND COHEN

On August 18, 1994, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, ordering the Respondent, Riley International Corporation, to make the Charging Party, Thomas H. Wagner, whole for any loss of earnings and other benefits he may have suffered resulting from his discharge in violation of Section 8(a)(1) of the National Labor Relations Act. On May 10, 1995, the Respondent signed a stipulation waiving its right under Section 10(e) and (f) of the Act to seek review of the Board's Order in the United States Court of Appeals.

A controversy having arisen over the amount of backpay due the discriminatee, on July 27, 1995, the Regional Director for Region 21 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 September 13, 1995, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business on September 20, 1995, a Motion for Summary Judgment would be filed. The Respondent filed no answer.

On October 31, 1995, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On November 2, 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.

<sup>1</sup> 314 NLRB 785 (1994).

**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, 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 is as stated in the compliance specification and we will order payment by the Respondent of that amount to the discriminatee, plus interest accrued on that amount to the date of payment.

**ORDER**

The National Labor Relations Board orders that the Respondent, Riley International Corporation, Carlsbad, California, its officers, agents, successors, and assigns, shall make whole Thomas H. Wagner by paying him the following amount, 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: \$15,597.56.

Dated, Washington, D.C. November 27, 1995

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William B. Gould IV, Chairman

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Margaret A. Browning, Member

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Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD