

Contractors Mechanical Incorporated and International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers, AFL-CIO. Cases 28-CA-11750-1, 28-CA-11750-2, and 28-CA-12155

September 29, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS COHEN AND TRUESDALE

On February 16, 1995, the National Labor Relations Board issued an unpublished Order adopting, in the absence of exceptions, the decision of the administrative law judge ordering Contractors Mechanical Incorporated, the Respondent, to make whole the discriminatees for their losses resulting from the Respondent's unfair labor practices in violation of Section 8(a)(1) and (3) of the National Labor Relations Act. On June 12, 1995, the United States Court of Appeals for the Ninth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due the discriminatees, on July 31, 1995, the Regional Director for Region 28 issued a compliance specification and notice of hearing alleging the amounts 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 August 24, 1995, the Region 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 August 30, 1995, a Motion for Summary Judgment would be filed with the Board. The Respondent filed no answer.

On September 7, 1995, the General Counsel filed with the Board a Motion for Summary Judgment. On September 8, 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.

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 specifica-

tion. 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 discriminatees for the period indicated is as stated in the compliance specification and we will order payment by the Respondent of said amounts to the discriminatees, plus interest accrued on said amounts to the date of payment.¹

ORDER

The National Labor Relations Board orders that the Respondent, Contractors Mechanical Incorporated, Ontario, California, its officers, agents, successors, and assigns, shall make whole the discriminatees by paying them the amount following their names, with interest to computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

Larry R. Blum	\$51,189.00
Billy G. Brake	54,128.00
Barry Childs	54,128.00
Scott Contratto	54,128.00
Larry Eastridge	54,128.00
Dennis P. Elliston	62,055.00
Gary Evenson	92,843.00
Kyle Evenson	99,071.00
David W. Flanders	54,128.00
Mario Garcia	38,720.00
Victor Gates	40,922.00
Kenneth Gawiuk	54,128.00
Kenneth Hansen	54,128.00
Richard Hoffman	65,180.00
Ray Northey	41,089.00
Frank Nunez	50,885.00
Randy Perks	40,582.00

¹The backpay amounts set forth in the specification are only for the period September 16, 1992, through July 31, 1995. Backpay continues to accrue from August 1, 1995.

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

Ken Ward	98,063.00
Michael Ward	98,063.00
George Wheatley	53,816.00
Jarrett Williams	54,128.00
TOTAL	\$1,265,502.00