

Tower Automotive, Inc. and Local 7807, United Paperworkers International Union, AFL-CIO.
Case 7-CA-38286

November 12, 1996

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX AND HIGGINS

Upon a charge filed by the Union on March 12, 1996, the General Counsel of the National Labor Relations Board issued a complaint on May 6, 1996, against Tower Automotive, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act by failing to provide certain information relevant to and necessary for the Union's performance of its duties as the exclusive collective-bargaining representative of a unit of the Respondent's employees. Although properly served copies of the charge and complaint, the Respondent failed to file an answer. On June 7, 1996, the Regional Attorney for Region 7 sent a letter to the Respondent advising that it had not filed an answer to the complaint and that unless it filed an answer by June 14, 1996, the General Counsel would file a Motion for Default Judgment with the Board. The Respondent did not file an answer.

On July 3, 1996, the General Counsel filed a Motion for Default Judgment with the Board. The General Counsel requests that all the allegations of the complaint be deemed admitted to be true, that the Respondent be found to have violated Section 8(a)(5) and (1) of the Act without taking evidence in support of the complaint, and that the Board issue a decision and appropriate remedial Order.

On July 5, 1996, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's motion should not be granted. On July 19, 1996, the Respondent, acting pro se, filed a timely response to the Notice to Show Cause. This response consists of a letter dated July 19, 1996, in which the Respondent states it is of the opinion that it has complied with the Union's request for documents and requests that the default be withdrawn. There was no affidavit of service on the parties and no other indication that such service was made.

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

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint

affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Default Judgment disclose that the General Counsel, by letter dated June 7, 1996, notified the Respondent that unless an answer were received by June 14, 1996, a Motion for Default Judgment would be filed. The Respondent failed to file an answer. However, the Respondent, by letter dated July 19, 1996, stated that it "is of the opinion that [it] has complied with the [Union's] request for the information that is the basis of their complaint."

Insofar as Respondent intends its July 19 letter to be an answer to the complaint, it fails in that purpose because it lacks the required specificity, it was not timely filed, and it was not properly served on the parties to the proceeding. Insofar as the Respondent intends the letter to be a response to the Notice to Show Cause, it is inadequate not only because it was not duly served on the parties but because it does not even attempt to explain or justify or even proffer an excuse for the failure to file a proper and timely answer to the complaint and because it fails to establish any sound reason why the Motion for Default Judgment should not be granted. Since the Respondent has not filed a timely proper answer and has not established "good cause" under Sections 102.20 and 102.21 of the Board's Rules and Regulations as to why the allegations of the complaint should not be deemed admitted, we find as true all such allegations and grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a corporation, with an office and place of business in Romulus, Michigan, has been engaged in the manufacture and nonretail sale of automotive parts where it annually purchased and received goods valued in excess of \$50,000 directly from points outside the State of Michigan. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The complaint alleges that in early 1995, the Respondent became the successor to Edgewood Tool and Manufacturing Company and, in October 1995, voluntarily recognized the Union as the exclusive collective-bargaining representative of the following unit:

All full-time and part-time production and maintenance employees, including tool and die makers,

machine repair, die setters, die tenders, shipping and receiving employees, truck drivers, hi-lo drivers, quality control inspectors, and general laborers employer by Respondent at its Romulus facility; but excluding office clerical employees, engineers, guards, and supervisors as defined in the Act.

This recognition has been embodied in a collective-bargaining agreement effective from June 1, 1993, through May 31, 1996, and which was adopted by the Respondent and the Union.

Since about February 7, 1996, the Union has requested the Respondent to furnish the following information

(a) Written documentation on how long it takes to change ship points;

(b) Proof from Ford Motor Company that the ship points of the work moved in 1995 have been changed.

The requested information is relevant to and necessary for the Union's performance of its duties as collective-bargaining representative of the unit. The Respondent has failed to furnish the requested information in violation of Section 8(a)(5) and (1).

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has violated Section 8(a)(5) and (1), and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed and refused to provide information necessary for and relevant to the Union's performance of its duty as the exclusive collective-bargaining representative of the Respondent's employees, we shall order the Respondent to provide the requested information.¹

ORDER

The National Labor Relations Board orders that the Respondent, Tower Automotive, Inc., Romulus, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

¹Of course, to the extent that the Respondent has already furnished the information to the Union, it will have an opportunity to demonstrate that fact in compliance and will not be required to provide the information anew.

(a) Refusing to bargain collectively with Local 7807, United Paperworkers International Union, AFL-CIO by failing to furnish written documentation on how long it takes to change ship points and proof from Ford Motor Company that the ship points of the work moved in 1995 have been changed.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish, on request, to Local 7807, United Paperworkers International Union, AFL-CIO, written documentation on how long it takes to change ship points and proof from Ford Motor Company that the ship points of the work moved in 1995 have been changed.

(b) Within 14 days after service by the Region, post at its facility in Romulus, Michigan, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since March 12, 1996.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

²If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT refuse to bargain collectively with Local 7807, United Paperworkers International Union, AFL-CIO by failing to furnish written documentation on how long it takes to change ship points and proof

from Ford Motor Company that the ship points of the work moved in 1995 have been changed.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, furnish Local 7807, United Paperworkers International Union, AFL-CIO with written documentation on how long it takes to change ship points and proof from Ford Motor Company that the ship points of the work moved in 1995 have been changed.

TOWER AUTOMOTIVE, INC.