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Endicott Forging & Manufacturing, Inc. and Local Lodge DS-190, District Lodge 58, International Association of Machinists and Aerospace Workers, AFL-CIO and International Brotherhood of Boilermakers, Iron Ship Builders, & Helpers, AFL-CIO, Local Union No. 1101.
Cases 3-CA-18477, 3-CA-19050, and 3-CA-19024

May 13, 1997

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX
AND HIGGINS

On September 19, 1995, the National Labor Relations Board issued a Decision and Order,¹ in Cases 3-CA-18477 and 3-CA-19050, ordering the Respondent, Endicott Forging & Manufacturing, Inc., to pay all delinquent pension fund contributions and restore the health and dental insurance coverage to the bargaining unit employees represented by Local Lodge DS-190, District Lodge 58, International Association of Machinists and Aerospace Workers, AFL-CIO (IAM), and make them whole by reimbursing them for any expenses ensuing from the Respondent's failure to maintain the coverage, with interest. On April 16, 1996, the United States Court of Appeals for the Second Circuit entered its Judgment enforcing in full the provisions of the Board's Order.

On September 29, 1995, the National Labor Relations Board issued a Decision and Order,² in Case 3-CA-19024, ordering the Respondent to restore medical and dental insurance coverage to the bargaining unit employees represented by International Brotherhood of Boilermakers, Iron Ship Builders & Helpers, AFL-CIO, Local Union No. 1101 (Boilermakers) and make those bargaining unit employees whole by reimbursing them for any expenses they incurred during the period which the Respondent failed to maintain such contractually required insurance coverage and failed to pay medical claims under a program of self-insurance. On April 18, 1996, the United States Court of Appeals for the Second Circuit entered its Judgment enforcing in full the provisions of the Board's Order.

A controversy having arisen over the amounts due under the terms of the Board's Orders, on December 31, 1996, the Regional Director for Region 3 issued an order consolidating cases, consolidated compliance specification, and notice of hearing (consolidated compliance specification), and on February 20, 1997, an

amendment thereto, alleging the amounts due under the Board's Orders, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with copies of the consolidated compliance specification and amendment, the Respondent failed to file any answer.

By letter dated April 3, 1997, the Regional Director advised the Respondent that no answer to the amended consolidated compliance specification had been received and that unless an appropriate answer was filed by April 11, 1997, summary judgment would be sought. The Respondent filed no answer.

On April 17, 1997, the General Counsel filed with the Board a Motion for Default Summary Judgment, with exhibits attached. On April 21, 1997, 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 the amended consolidated compliance specification are therefore undisputed.

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 amended consolidated compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the amended consolidated compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due are as stated in the amended consolidated compliance specification and we will order payment by the Respondent of those amounts, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Endicott Forging & Manufacturing, Inc., its officers, agents, successors, and assigns, shall make

¹ 319 NLRB 1.

² 319 NLRB 180.

whole the following individuals and fund by paying them the amounts set forth below, plus interest on the backpay owed the individuals as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and any additional amounts accruing on the fund contributions as prescribed in *Merryweather Optical Co.*, 240 NLRB 1213 (1979), minus tax withholdings on the backpay due the individuals required by Federal and state laws:

Douglas T. Bronson	\$248.42
George B. Gelatt	846.56
Robert S. Warriner	3,497.75
John Avery	24,112.31
Thomas J. Duffy	2,617.00

IAM National Pension Fund	19,577.97
TOTAL	\$50,900.01

Dated, Washington, D.C. May 13, 1997

William B. Gould IV, Chairman

Sarah M. Fox, Member

John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD