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Schaumburg Hyundai, Inc. and Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Case 13-CA-32334

May 22, 1997

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX AND HIGGINS

On August 24, 1995, the National Labor Relations Board issued a Decision and Order,¹ inter alia, directing the Respondent, Schaumburg Hyundai, Inc., to make whole employee Peter Goff and any other employees who were adversely affected by the Respondent's unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the National Labor Relations Act. By stipulation approved by the Regional Director on November 21, 1996, the Respondent waived its right under Section 10(e) and (f) of the Act to contest the propriety of the Board's Order or the underlying findings of fact and conclusions of law, but reserved the right to contest the amount of backpay due the discriminatees under the Board's Order.

Thereafter, on February 4, 1996, the Regional Director for Region 13 issued a compliance specification and notice of hearing alleging the amount of backpay 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 March 12, 1997, 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 March 27, 1997, summary judgment would be sought. The Respondent filed no answer.

On April 28, 1997, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On April 29, 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 in the compliance specification are therefore undisputed.

¹ 318 NLRB 449 (1995).

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 discriminatees is as stated in the compliance specification and we will order payment by the Respondent of those amounts to the discriminatees, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Schaumburg Hyundai, Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

| | |
|---------------|---------|
| Ron Beckman | \$1,537 |
| Walter Beer | 1,122 |
| Tony Chiovar | 1,666 |
| Bill Daley | 2,134 |
| Steve Hemmer | 2,172 |
| Tom Jundt | 1,641 |
| Tom Lindberg | 1,341 |
| Mark Novak | 1,894 |
| Alan Pokorny | 229 |
| Bob Janssen | 202 |
| Ira Reisman | 2,147 |
| Kahlon Singh | 69 |
| Kevin Sweeney | 1,877 |
| Jeff Weinberg | 1,811 |

| | |
|------------|----------|
| Peter Goff | 23,570 |
| TOTAL: | \$43,412 |

Dated, Washington, D.C. May 22, 1997

William B. Gould IV, Chairman

Sarah M. Fox, Member

John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD