

Task Force Security & Investigation, Inc. and Allied International Union. Case 29-CA-20404

July 22, 1997

DECISION AND ORDER GRANTING IN PART
AND DENYING IN PART MOTION FOR
SUMMARY JUDGMENT AND REMANDING

BY CHAIRMAN GOULD AND MEMBERS FOX
AND HIGGINS

Upon a charge filed by Allied International Union on October 18, 1996, the General Counsel of the National Labor Relations Board issued a complaint on January 30, 1997, against the Respondent, Task Force Security & Investigation, Inc., alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Copies of the charge and complaint were properly served on the Respondent. The Respondent filed letters dated February 3 and April 14, 1997, purporting to be answers to the complaint. On May 5, 1997, the General Counsel filed a Motion for Summary Judgment, with exhibits attached, asserting, *inter alia*, that the "Respondent's letters constitute an inadequate Answer to the Complaint."

On May 6, 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 filed no response to the notice. The allegations in the motion are therefore undisputed.

I. PROCEDURAL HISTORY

The January 30, 1997 complaint alleges that since about October 16, 1996, the Respondent has violated Section 8(a)(1) and (5) of the Act by failing and refusing to bargain collectively with the Union as the exclusive collective-bargaining representative of the bargaining unit employees. The Respondent filed a letter dated February 3, 1997, in response to the complaint. By certified letter dated April 9, 1997, the General Counsel notified the Respondent that an answer to the complaint had not been filed, and that, if an answer was not received by April 16, 1997, the General Counsel would take appropriate steps toward the filing of a Motion for Summary Judgment.

On April 14, 1997, the Respondent telephoned the Board's Regional Office 29 and requested an explanation of the deficiencies in the Respondent's letter dated February 3, 1997. Counsel for the General Counsel recited to the Respondent verbatim Section 102.20 of the Board's Rules and Regulations, and repeated that Section 102.20 requires the Respondent to specifically address each allegation of the complaint.¹

¹ Sec. 102.20 of the Rules and Regulations provides:

The respondent shall, within 14 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the

On April 15, 1997, the Respondent submitted a letter dated April 14, 1997, in response to the complaint. The Respondent's letter specifically stated that paragraphs 9, 10, 11, and 12 of the complaint "are not true." Those are the four complaint paragraphs which allege that since about October 16, 1996, the Union has requested the Respondent to bargain, that since that date the Respondent has failed and refused to bargain, that the Respondent has thereby violated Section 8(a)(1) and (5), and that the Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act. The April 14, 1997 letter additionally explained the Respondent's conduct by stating that the Respondent had informed union officials in January 1997 that "all the Security Officers working on these sites signed a letter stating that they didn't want to belong to any union."

The General Counsel contends in his Motion for Summary Judgment that the Respondent's April 14, 1997 letter constitutes an inadequate answer to the complaint under Section 102.20 of the Board's Rules and Regulations because the Respondent did not specifically admit, deny, or explain each of the facts alleged in the complaint, or state that the Respondent was without knowledge. The General Counsel accordingly submits that no sufficient answer has been filed, that in accordance with Section 102.20 of the Board's Rules and Regulations all allegations in the complaint should be deemed to be true and should be so found by the Board, and that summary judgment as to the complaint allegations should be granted.

II. RULING ON MOTION FOR SUMMARY JUDGMENT

The Respondent's April 14, 1997 pro se letter specifically denies the precise complaint allegations asserting that since about October 16, 1996, the Union has requested the Respondent to bargain and the Respondent has refused. Thus, the letter does clearly deny complaint paragraphs 9 and 10 containing the operative facts of the alleged unfair labor practice, and further specifically denies conclusory paragraphs 11 and 12, which allege that the Respondent has engaged in unfair labor practices. To be sure, the Respondent's April 14, 1997 letter does not respond to each and every paragraph in the complaint. The Respondent's effective denials of the substance of the complaint allegation of the refusal to bargain, however, have raised substantial and material issues of fact warranting a hearing before an administrative law judge. *Carpentry*

complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

Contractors, 314 NLRB 824, 825 (1994). We shall accordingly deny the General Counsel's Motion for Summary Judgment as to complaint paragraphs 9 through 12.

The Respondent has not, however, placed into dispute complaint paragraphs 1 through 8, which set forth the filing and service of the underlying unfair labor practice charge, that the Respondent and the Union are respectively an employer engaged in commerce and a labor organization under the Act, and that the Union was certified as the collective-bargaining representative of the bargaining-unit security officers on February 9, 1995. The Respondent's April 14, 1997 letter does not in any manner place into dispute these allegations. As the Respondent's letter does not admit, deny, explain, or otherwise meet the substance of these allegations set forth in complaint paragraphs 1 through 8, we shall grant the General Counsel's Motion for Summary Judgment as to those paragraphs.

ORDER

It is ordered that the allegations set forth in complaint paragraphs 1 through 8 are deemed to be true, and the General Counsel's Motion for Summary Judgment is granted with respect to those paragraphs.

IT IS FURTHER ORDERED that this proceeding is remanded to the Regional Director for Region 29 for the purpose of arranging a hearing before an administrative law judge limited to the allegations set forth in complaint paragraphs 9 through 12. The administrative law judge shall prepare and serve on the parties a decision containing findings of fact, conclusions of law, and recommendations based on all the record evidence. Following service of the administrative law judge's decision on the parties, the provisions of Section 102.46 of the Board's Rules shall be applicable.