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Elliott Metal Processing Co. and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO and its Local 985. Cases 7-CA-41062 and 7-CA-41179

February 18, 2000

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX AND
BRAME

On October 30, 1998, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Elliott Metal Processing Co., and its officers, agents, successors, and assigns (the Respondent) to make whole certain of its unit employees for losses and expenses resulting from its failure to maintain health insurance coverage for its unit employees as provided in its 1994-1997 collective-bargaining agreement with the Union, in violation of the National Labor Relations Act. On April 30, 1999, the United States Court of Appeals for the Sixth Circuit issued its mandate enforcing the Board's Order.²

A controversy having arisen over the amounts due unit employees, on November 10, 1999, the Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amount 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 December 3, 1999, the Regional attorney advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by December 17, 1999, default summary judgment would be sought. The Respondent filed no answer.

On January 13, 2000, the General Counsel filed with the Board a Motion for Default Summary Judgment, with exhibits attached. On January 18, 2000, 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.

¹ 327 NLRB No. 32.

² Case 99-5317.

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 amounts due the named individuals are as stated in the compliance specification and we will order payment by the Respondent of said amounts to the named individuals, plus interest accrued on said amounts to the date of payment, as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Elliott Metal Processing Co., Detroit, Michigan, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest:

Lonnie Dixon	\$1,167.00
Willie Mills	1,263.50
Joe Miree	782.65
Herbert Owens	5,241.42
TOTAL	\$8,454.57

Dated, Washington, D.C. February 18, 2000

John C. Truesdale, Chairman

Sarah M. Fox, Member

J. Robert Brame III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD