

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Apple Painting Company, Inc. and Christine Marie Paul Johnson. Case 7-CA-40902

August 16, 2000

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX AND BRAME

On April 29, 1999, the National Labor Relations Board issued a Decision and Order, inter alia, ordering Apple Painting Company, Inc., to take certain affirmative actions, including reinstating Charging Party Christine Marie Paul Johnson and making her whole for her loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of the National Labor Relations Act. On February 1, 2000, the United States Court of Appeals for the Sixth Circuit issued its mandate enforcing the Board's Order.

A controversy having arisen over the amount of backpay due the Charging Party, on May 12, 2000, 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 June 7, 2000, 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 June 21, 2000, Default Summary Judgment would be sought. The Respondent filed no answer.

On July 5, 2000, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On July 7, 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.

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 Default 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 amount due Christine Marie Paul Johnson is as stated in the compliance specification and we will order payment by the Respondent of those amounts to Christine Marie Paul Johnson, plus interest accrued on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Apple Painting Company, Inc., Livonia, Michigan, its officers, agents, successors, and assigns, shall make whole the individual named below, by paying her the amounts following her name, plus interest:

	<i>Backpay</i>	<i>Medical</i>	<i>Fringe Benefits</i>
Christine Marie Paul Johnson	\$20,391.14	\$45.00	\$10,027.48

Dated, Washington, D.C. August 16, 2000

John C. Truesdale, Chairman

Sarah M. Fox, Member

J. Robert Brame III, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD