

*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.*

**Tru-Link Commercial, Inc. and Pedro Lopez.** Case  
13-CA-39621

June 26, 2002

DECISION AND ORDER

BY MEMBERS LIEBMAN, COWEN, AND BARTLETT

The General Counsel in this case seeks summary judgment on the ground that the Respondent has failed to file an answer to the complaint. On a charge filed by Pedro Lopez on August 30, 2001, the General Counsel issued the complaint on November 14, 2001, against Tru-Link Commercial, Inc., the Respondent, alleging that it has violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On February 26, 2002, the General Counsel filed a Motion for Summary Judgment with the Board. On February 28, 2002, 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. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated January 25, 2002, notified the Respondent that unless an answer were received by February 1, 2002, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, an Illinois corporation, with an office and place of business in Chicago, Illinois, has been engaged in the installation of fencing and ironworks. During the 12-month period preceding the issuance of the complaint, the Respondent in conducting its operations derived gross revenues in excess of \$500,000, and purchased and received goods and valued in excess of \$50,000 directly from suppliers located out-

side the State of Illinois. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, Wayne Walls has been the President of the Respondent, and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

About August 28, 2001, the Respondent's employees Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by refusing to work until the Respondent told its employees when they would be paid.

About August 28, 2001, the Respondent discharged Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres.

The Respondent engaged in the conduct described above because Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres engaged in protected, concerted activity, and to discourage employees from engaging in these or other concerted activities.

CONCLUSION OF LAW

By discharging Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres because they concertedly complained to the Respondent regarding employee wages, hours, and working conditions by refusing to work until the Respondent told employees when they would be paid, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(1) of the Act by discharging Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres on August 28, 2001, because they concertedly complained to the Respondent regarding employee wages, hours, and working conditions by refusing to work until the Respondent told employees when they would be paid, we shall order the Respondent to offer Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and to make them whole for

any loss of earnings and other benefits suffered as a result of the Respondent's unlawful conduct. Backpay shall be computed in accordance with *F.W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be required to expunge from its files any and all references to the unlawful discharges, and to notify Lopez, Hernandez, Segoviano, and Torres in writing that this has been done.

ORDER

The National Labor Relations Board orders that the Respondent, Tru-Link Commercial, Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging employees because they complain about employee wages, hours, and working conditions by refusing to work until the Respondent tells employees when they will be paid.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres, and within 3 days thereafter notify them in writing that this has been done and that the discharge will not be used against them in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Chicago, Illinois, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on

forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 28, 2001.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 26, 2002

\_\_\_\_\_  
Wilma B. Liebman, Member

\_\_\_\_\_  
William B. Cowen, Member

\_\_\_\_\_  
Michael J. Bartlett, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX  
NOTICE TO EMPLOYEES  
Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT discharge employees because they complain about employee wages, hours, and working conditions by refusing to work until we tell employees when they will be paid.

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judge

ment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of this Order, offer Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres whole for any loss

of earnings and other benefits suffered as a result of the discrimination against them, with interest.

WE WILL, within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Pedro Lopez, Gumaro Hernandez, Martin Segoviano, and Isaias Torres, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the discharge will not be used against them in any way.

TRU-LINK COMMERCIAL, INC.