

**Paul Mueller Company and Sheet Metal Workers
International Association, Local No. 208.** Cases
17-CA-20003 and 17-CA-20266

July 16, 2002

DECISION AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS LIEBMAN
AND BARTLETT

On January 12, 2000, Administrative Law Judge Pargen Robertson issued the attached decision. Both the Respondent and the General Counsel filed exceptions. The General Counsel filed a supporting brief.

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

The Board has considered the judge's decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings, and conclusions only to the extent consistent with this Decision and Order.¹

For the reasons stated in the judge's decision, we adopt his finding that the Respondent violated Section 8(a)(3) by reducing employee James Hulse from master craftsman and lowering his pay. However, we reverse the judge's dismissal of the additional complaint allegation that the Respondent violated Section 8(a)(5) by unilaterally subcontracting certain fabrication work to T and C Stainless, Inc. The judge found that the allegation was barred by Section 10(b) of the Act, which forbids the issuance of any complaint based on any unfair labor practice occurring more than 6 months before the filing of a charge. We agree with the General Counsel, for the reasons stated below, that the allegation was not time barred and that the Respondent's subcontracting was unlawful.

The record shows that the Union filed a charge on August 6, 1999, asserting that the Respondent violated Section 8(a)(5) by unilaterally subcontracting fabrication work to T and C Stainless, Inc. On October 13, 1999, the General Counsel issued a consolidated complaint, alleging, inter alia, that by its action the Respondent unlawfully failed and refused to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees.² The Respondent stipulated at

¹ In his recommended Order, the judge omitted a provision forbidding the Respondent from violating Sec. 7 "in any like or related manner." We find merit in the General Counsel's exception to the omission and have included such language in our new Order and notice.

We shall modify the judge's recommended Order in accord with our recent decision in *Ferguson Electric Co.*, 335 NLRB 142 (2001). In addition, we shall modify the judge's recommended Order and notice to conform with our standard remedial language.

² The complaint listed the subcontracted work as consisting of the fabrication of shells, heads, manways, and various other components of

the hearing that the subcontracting of the work was a mandatory subject of bargaining and that it had neither given prior notice to the Union nor afforded it an opportunity to bargain.

In dismissing the complaint allegation as untimely under Section 10(b), the judge found that the subcontracting began in November 1996 and that the Union knew of it sometime prior to 1998 and more than 6 months before the filing of the charge on August 6, 1999. The judge rejected the General Counsel's assertion that the Union first became aware of the subcontracting in June 1999 during a conversation between Union President James Hulse and the Respondent's human resources director, Mike Young, and that the limitations period should begin at that time. Instead, the judge found that Hulse's testimony regarding the conversation indicated that he already knew of the subcontracting.

The General Counsel excepts to the judge's dismissal on 10(b) grounds, arguing that the record demonstrates that Hulse first learned of the subcontracting a few days before the June 1999 meeting. In reversing the judge's dismissal, we rely on both the insufficiency of the evidence as to the Union's earlier knowledge of the subcontracting, as well as the Respondent's waiver of its 10(b) defense.

Section 10(b) is a statute of limitations and is not jurisdictional in nature. Rather, it is an affirmative defense which is waived if not timely raised. *Public Service Co. of Colorado*, 312 NLRB 459, 461 (1993). Specifically, the 10(b) limitations period must be raised either in the pleadings or at hearing. *Id.*; *McKesson Drug Co.*, 257 NLRB 468 fn. 1 (1981) (10(b) defense is untimely when first raised in brief to administrative law judge). The Board also has held that "the 10(b) period commences running when the charging party either knows of the unfair labor practice or would have 'discovered' it in the exercise of 'reasonable diligence.'" *R.G. Burns Electric*, 326 NLRB 440, 441 (1998) (citation omitted).

Applying these standards here, it is clear that the Respondent did not raise the 10(b) defense either in its answer or at the hearing. Instead, the Respondent first raised the 10(b) defense in its post-hearing brief to the judge. The Respondent's failure to plead or specifically litigate this defense at the hearing clearly handicapped the General Counsel in responding to the judge's dismissal, since he had no occasion to bring out the facts on

the stainless steel tanks and other products to T and C Stainless, Inc. of Mt. Vernon, Missouri. At the hearing, however, the Respondent and the General Counsel stipulated that the subcontracting had only included the chill tanks, outlet assemblies and the three-compartment open vessel work to T and C Stainless and not the shells, heads, and manways.

this issue. See *Taft Broadcasting*, 264 NLRB 185, 190 (1982) (untimely raising of 10(b) defense prejudiced General Counsel's ability to counter it). Consequently, we find that the Respondent waived the 10(b) defense.

Moreover, even if the Respondent had timely raised the 10(b) defense, we find that this defense fails. The Respondent had the burden of showing that the Union knew or should have known prior to the 10(b) period that the work had been contracted. *Dutchess Overhead Doors*, 337 NLRB 162, 166 (2001). The Respondent did not meet this burden. Rather, the evidence relied upon by the judge fails to establish that the Union knew of the subcontracting outside of the 10(b) period. Thus, contrary to the judge's finding, the record does not contain a stipulation that the Union was aware of the subcontracting to T and C Stainless before 1998. Nor does the testimony of Hulse negate the General Counsel's contention that the Union first learned of the subcontracting in June 1999. Hulse testified that he only learned of the subcontracting several days before his scheduled June meeting with Young. Contrary to what the judge found, this testimony does not suggest that the Union knew of the subcontracting (or would have known, using reasonable diligence) more than 6 months prior to the filing of the charge on August 6, 1999. For these reasons, the judge erred in finding that the subcontracting allegation was time-barred.

We therefore turn to the substance of the subcontracting allegation. The Respondent stipulated at trial that it had subcontracted the fabrication work to T and C Stainless, Inc.; that the subcontracting was a mandatory subject of bargaining; and that it neither provided prior notice to the Union or afforded the Union an opportunity to bargain either over the conduct or the effects of this conduct. The Respondent thus has essentially admitted that it violated Section 8(a)(5) by its unilateral action, and we so find. See *NLRB v. Katz*, 369 U.S. 736 (1962)(employer's unilateral implementation of changes in terms and conditions of employment violates statutory duty to bargain collectively).

AMENDED 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. We shall order the Respondent to immediately rescind James Hulse's unlawful reduction in pay and grade, to remove all references to this unlawful reduction from its records and notify Hulse in writing that this has been done, and to make Hulse whole for all loss of earnings suffered as a result of the discrimination against him, in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289

(1950). We shall order the Respondent to make unit employees whole for any losses suffered by them because of the subcontracting of work to T and C Stainless, Inc., in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enf. 444 F.2d 502 (6th Cir. 1971). Interest will be computed as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Paul Mueller Company, Springfield, Missouri, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Unilaterally subcontracting bargaining unit work without giving the Union advance notice and an opportunity to bargain about the decision and its effects.

(b) Reducing its employees' grade and pay from master craftsman because of their Union and other protected activities.

(c) In any like or related manner interfering with, restraining, or coercing its 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, rescind its unlawful reduction in grade and pay of James Hulse.

(b) Within 14 days from the date of this Order, remove from its files any reference to the unlawful reduction in grade and pay, and within 3 days thereafter notify Hulse in writing that this has been done and that the reduction will not be used against him in any way.

(c) Make James Hulse whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, in the manner set forth in the remedy section of the decision.

(d) Make whole unit employees for any losses they have suffered as a result of the Respondent's unilateral transfer of bargaining unit work, in the manner set forth in the remedy section of the decision.

(e) Restore the work subcontracted to T and C Stainless, Inc. to the bargaining unit employees.

(f) 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.

(g) Within 14 days after service by the Region, post at its facility in Springfield, Missouri, copies of the attached

notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 17, 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 November 1998.

(h) 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.

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 has found that we violated the National Labor Relations Act and has ordered us to post and abide by 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 demote or reduce the pay of employees from the classification of master craftsman because of their protected activities on behalf of Sheet Metal Workers International Association, Local Union No. 208 (the Union), or any other labor organization.

WE WILL NOT unilaterally subcontract bargaining unit work without giving the Union advance notice and an opportunity to bargain about the subcontracting decision and its effects.

³ 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 Judgment 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 immediately rescind our action in reducing the pay and grade of our employee James Hulse and restore him to the position and pay of master craftsman.

WE WILL, within 14 days from the date of the Board's order, remove from our files any reference to the unlawful reduction in pay and grade of James Hulse, and WE WILL, within 3 days thereafter, notify him in writing that this has been done and that the reduction will not be used against him in any way.

WE WILL make James Hulse whole for all loss of earnings and other benefits resulting from our unlawful reduction in his grade of master craftsman, plus interest.

WE WILL restore the work subcontracted to T and C Stainless, Inc. to our bargaining unit employees in the Springfield plant.

WE WILL make the unit employees whole, with interest, for any losses they have suffered as a result of our unilateral transfer of bargaining unit work.

PAUL MUELLER COMPANY

Richard C. Auslander, Esq., for the General Counsel.
Stanley E. Craven, Esq., Kansas City, Missouri, for the Respondent.

DECISION

STATEMENT OF THE CASE

PARGEN ROBERTSON, Administrative Law Judge. This hearing was held on November 2, 1999, in Springfield, Missouri. The 17-CA-20003 charge was filed on January 6, and amended on February 18, and April 12, 1999. The 17-CA-20266 charge was filed on August 6, 1999. A consolidated complaint issued on October 13, 1999.

All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence. Upon consideration of the entire record and briefs filed by Respondent and General Counsel, I make the following findings.

I. JURISDICTION

Respondent is a corporation with an office in Springfield, Missouri, where it is engaged in the manufacture of stainless steel tanks and related products. Respondent annually purchased and received goods valued in excess of \$50,000 and sold and shipped goods valued in excess of \$50,000, to and from its Springfield location. Respondent admitted that it has been an employer engaged in commerce at material times.

II. LABOR ORGANIZATIONS

Respondent admitted that Sheet Metal Workers International Association, Local No. 208, has been a labor organization at all material times.

III. THE UNFAIR LABOR PRACTICE ALLEGATIONS

Respondent admitted that the following employees constitute an appropriate bargaining unit and that the Union has been the exclusive collective-bargaining representative for those employees from at least 1977:

All full-time and regular part-time craftsmen, fabricators and production employees employed by Respondent at its Springfield, Missouri facility excluding all executive, managers, professional employees, technical employees, office employees, clerical employees, guards and supervisors as defined in the Act and employees employed in the machine shop, maintenance areas and other machinist work areas.

At material times the bargaining unit has included approximately 400 employees. A majority of the unit employees went on strike in July 1995 and that strike has continued to date. During that period with the exception of 1-1/2 days, the Union has maintained a picket line outside Respondent's property. All but 15 of the striking employees have either returned to work or made offers to return to work. Beginning during the strike and continuing to date, Respondent subcontracted certain work including chill tanks, outlet assemblies, and a small product called three-compartment open vessel, to T and C Stainless without bargaining with the Union.

Alleged discriminatee James Hulse has worked for Respondent since August 3, 1963. Hulse was an alleged illegal discharge in an earlier unfair labor practice case that resulted in a settlement with Hulse being returned to his original job and paid \$240 in backpay. He was involved in several unfair labor practice hearings¹ and an alleged discriminatee in unfair labor practices found by Administrative Law Judge Ladwig.² Hulse is president of the Local and has been its chief steward for 25 years. As chief steward he filed 14 grievances between September 3, 1996, and December 18, 1998. As shown in Judge Ladwig's decision (JD-60-97).³ Hulse went out during the 1995 strike and returned to work in early June 1996.

Hulse was a master craftsman.⁴ Hulse testified that he was a lead man until 1987 when the leadman classification was re-

¹ See for example *Paul Mueller Co.*, JD (SF)-14-99 at page 3.

² That decision (JD-60-97) by Judge Ladwig is pending on appeal before the NLRB.

³ GC Exh. 2.

⁴ GC Exh. 5, sec. 4 at page 6 reads:

The Company may, at its discretion, designate one or more employees to a Master level within any job classification. Master level employees will be paid the following amounts above the pay rate of their current classification:

Craftsman	\$0.75/hour
Fabricator	\$0.60/hour
Production Worker	\$0.40/hour

Employees assigned to the Master level will have demonstrated the highest degree of skill, ability, performance and dependability within their classification. Each assignment will be reviewed and approved by the appropriate Supervisor and a Superintendent prior to implementation.

In addition to their normal duties, Master level employees are responsible for:

moved from the contract. Subsequently the master craftsman language was included in the implemented contract offer (GC Exh. 5) and Hulse has been a master craftsman since that time. He worked in Department 944 as shear and brake operator until November 1998.

Respondent eliminated Department 944 in November and transferred all those employees from both the first and second shifts to other departments. Hulse had worked on first shift in 944 along with Charles Cates, John Downs, John Bradley, Wilford Judy, and Joe Laugherty. Cates and Hulse were the only master craftsmen on that shift. Hulse had approximately 25 years service as leadman or master craftsman while Cates had only 5 or 6 years service as master craftsman.

The 944 second shift included Fred Willis and Willis' helper, Terry Gustin, Charles Usher, and Derral Harold. Fred Willis was the only master craftsman on that shift but Willis did not have as much seniority as master craftsman as Hulse.

On November 19, 1998, Hulse's supervisor⁵ told him that 944 was being eliminated and that Hulse would lose his master craftsman pay.

Hulse was transferred to Department 949 where he performed the same work he had performed in 944. He talked with McKenna again on December 4. Hulse asked McKenna why his pay was cut when Charles Cates still had master craftsman status when he was up on the hill with only one other employee. Hulse pointed out that he had four or five employees working with him in Department 949 and that those employees asked him questions about how to perform their jobs. Hulse also told McKenna that his skills and abilities were the same as when he was master craftsman. McKenna referred Hulse to Dwayne Shaw. Shaw told Hulse that Respondent had the right under the implemented last contract offer⁶ to put him back in wage level. Hulse testified that Shaw told him he had lost his master craftsman pay because he was no longer leading any other employee. Manufacturing Operations Manager Dwayne Shaw agreed that he demoted Hulse from master craftsman because Hulse was no longer leading other employees. Shaw pointed out that Respondent also demoted John Macak from master craftsman when all the employees that worked with Macak were laid off.⁷ On cross-examination Shaw admitted that three out of the five employees in the warehouse-receiving department are classified as master employees.

directing employees in job procedures and other phases of work to perpetuate the trade; conferring with the Supervisor regarding quality and quantity requirements and the solution of specific problems; planning and performing work from schedules, specifications and verbal or written instructions; and completing appropriate reports and records as required.

Master level employees are not required to hire, discharge, discipline or recommend such actions. The Company may return any employee from their Master level designation back to their regular job classification and pay scale at any time.

Master level pay will be given to employees who are assigned to train other employees in company training schools (i.e.; welding, grinding, layout, etc.).

⁵ Chris McKenna was Hulse's supervisor.

⁶ GC Exh. 5.

⁷ See RX 1(a)-(e).

Charles Cates and Fred Willis are not members of the Union. Both were hired as replacement workers during a 1987 union strike.

Conclusions

Credibility

I credit the testimony of James Hulse. Hulse impressed me with his demeanor and candid response to questions from both attorneys. Moreover, as shown herein, there was no testimony disputing Hulse. The only witness called by Respondent was Dwayne Shaw. Even though Shaw was involved in at least one conversation with Hulse, he did not dispute Hulse's account of that incident. I do not credit Shaw's testimony as to the reason why Hulse was reduced in grade. I credit testimony in addition to that of Hulse including that of Shaw, Walter Ipock, and John Bradley, which was not in conflict with other evidence.

Findings

James Hulse

The General Counsel has the burden of proving that the employers were motivated to demote employees because of union protected activities. See *Manno Electric*, 321 NLRB 1, fn. 12 (1996); *Wright Line*, 251 NLRB 1083 (1980), enf. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982); *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983).

Discontinuation of Master Status

There is no dispute but that Hulse engaged in extensive protected union activity and that Respondent was aware of those activities. Moreover, as shown herein and in earlier decisions involving Respondent, there is no dispute but that Respondent has repeatedly demonstrated union animus. That animus has been directed against Hulse as shown in JD-60-97. The General Counsel proved disparity by showing that Respondent selected other employees that had not engaged in union activities to retain their master status when it elected to discontinue Department 944 in November 1998. Both Charles Cates and Fred Willis were junior to Hulse as master craftsmen and both Cates and Willis had acted contrary to the Union by accepting assignment as replacement workers during the 1987 union strike. Both, like Hulse, were assigned to Department 944 before its elimination. However, Cates and Willis continued as master craftsmen.

Moreover, Dwayne Shaw admitted on cross-examination that three of the five employees in the warehouse-receiving department have master status and Walter Ipock testified that his supervisor told him that he would be a master craftsman even if he were transferred to another department. I am persuaded on the basis of that evidence, that Respondent did not consistently require its master employees to exercise leadman responsibilities.

On the basis of that evidence and the full record, I find that General Counsel has proved that Hulse was a known union advocate, that Respondent demonstrated union animus, and that it treated Hulse in a disparate manner by discontinuing his master status.

I am not convinced that Respondent would have discontinued Hulse's master status in the absence of union activity. Re-

spondent proved that employees John Macak and Richard Applegate were deprived of their master status in January and August 1998. However, I find those situations must be distinguished from James Hulse. Neither Macak nor Applegate were involved in the elimination of a department and the transfer of all employees from that department to other areas. Instead Macak and Applegate saw the number of employees in each respective work area reduced to only Macak and Applegate. There was no showing that Respondent had an opportunity in either of those two cases to place Macak or Applegate in a position where there was a need for a master craftsman.

Respondent contends that Hulse was reduced in pay because there was no longer a need to use him in a leadman capacity and that master craftsman pay is justified only when the master craftsman acts as leadman. However, as shown above, the definition of master craftsman is dependent on the employee demonstrating the "highest degree of skill, ability, performance and dependability within their classification." Respondent does not deny and in fact, Dwayne Shaw admitted, that Hulse has retained his skill as a master craftsman.

Moreover, the record failed to show that Respondent could not have assigned Hulse to a position after the elimination of Department 944, that included the responsibilities included within the definition of master status (GC Exh. 5). In fact as shown above, that is precisely the direction Respondent took in making an assignment to Charles Cates.

I find that Respondent failed to prove it would have discontinued the master craftsman status of James Hulse in the absence of Union and protected activity. The record proved that Respondent engaged in conduct in violation of the provisions of Section 8(a)(1) and (3) by reducing Hulse from master craftsman.

More Onerous Working Conditions

As shown above, the record illustrated that Respondent unlawfully discontinued James Hulse's master pay status. In making that finding I determined that Respondent may have elected to place Hulse in a different department than department 949, if it had been sincere in its concern that its master craftsmen exercise leadman authority. However, by making that observation, I do not find that Respondent engaged in unlawful activity by making a different departmental assignment and I do not find that Hulse was given a more onerous work assignment.

When 944 was eliminated, Hulse was retained on the first shift doing work similar to that he had previously performed in 944. Hulse did testify to having heard that he may be assigned to work the 16-foot shear but there is no evidence that management had made a decision at that time or that it was ever the intention of management to make that assignment to Hulse. Moreover, there was no showing that Hulse requested assignment to the 16-foot shear or to any job other than the ones he was assigned in department 949. Although Hulse testified as to the fact that the 16-foot shear would have been easier for him to operate than other jobs because of a previous back injury, there was no showing that Respondent knew how Hulse felt in that regard. I find that General Counsel failed to prove that Respondent engaged in unlawful activity by assigning Hulse to more onerous work.

Unilateral Subcontracting

General Counsel alleged and Respondent stipulated that it has unilaterally subcontracted unit work including chill tanks, outlet assemblies, and three compartment open vessel from the time of the union strike.⁸ Obviously the initial subcontract to T and C Stainless occurred more than 6 months before the filing of the charges herein. However, General Counsel argued that the Union first learned that Respondent was subcontracting to T and C Stainless in June 1999 when James Hulse met with Human Resources Director Mike Young.

The record including stipulations shows that the Union has been aware of the subcontracting to T and C Stainless from before 1998. Apparently General Counsel is contending that Respondent had an obligation to advise the Union it was continuing to subcontract to T and C Stainless, at some time during the section 10(b) period.

However, that is not the sense of General Counsel's evidence. Union President James Hulse testified regarding the unilateral change allegations. Hulse testified about his June 1999 conversation with Mike Young. James Hulse asked Mike Young if "they were going to subcontract out any work besides (T and C)" (Tr. 39-40). Hulse then admits that Young told him that Respondent was not engaged in any new subcontracting.

Hulse's testimony is the only testimony regarding that meeting. Mike Young did not testify. However, Hulse's testimony does not support General Counsel's contention. Instead it shows that the Union was already aware of the T and C Stainless subcontract and that it learned during that meeting that Respondent had not engaged in any new and recent subcontracting of unit work.

Under Section 10(b) of the Act no complaint shall issue based on any unfair labor practice occurring more than 6

⁸ As shown herein the Union struck Respondent in 1995 and that strike has continued to date even though all but 15 striking employees have either returned or offered to return, to work. Respondent conceded in its brief that it has subcontracted work to T and C Stainless since around November 1996. The initial charge herein was filed on January 6, 1999.

months prior to the filing of a charge. Respondent's action in subcontracting with T and C Stainless occurred more than 1-1/2 years before the earliest possible 10(b) date. I find that General Counsel failed to prove that Respondent engaged in conduct in violation of Section 8(a)(1) and (5).

CONCLUSIONS OF LAW

1. Paul Mueller Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Sheet Metal Workers International Association, Local Union No. 208, is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent, by reducing James Hulse from master craftsman and lowering Hulse's pay, has engaged in conduct in violation of Section 8(a)(1) and (3) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6), (7), and (8) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices, I shall recommend that it be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

As I have found that Respondent has unlawfully reduced James Hulse from master craftsman and reduced his pay, in violation of sections of the Act, I shall order Respondents to immediately rescind all Hulse's unlawful reduction in pay and grade, to remove all reference to those unlawful reduction in pay and grade from its records and notify Hulse in writing that has been done; and to make Hulse whole for all loss of earnings suffered as a result of the discrimination against him. Backpay shall be computed as described in *Abilities & Goodwill, Inc.*, 241 NLRB 27 (1979); and *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as described in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

[Recommended Order omitted from publication.]