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**Tri-County Manufacturing and Assembly, Inc. and United Steelworkers of America, AFL-CIO-CLC.** Cases 9-CA-37528, 9-CA-37559, 9-CA-37754-4, and 9-CA-37837-2

March 22, 2004

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS SCHAUMBER, WALSH, AND MEISBURG

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.

On August 27, 2001, the Board issued a Decision and Order,<sup>1</sup> which, among other things, ordered the Respondent to make whole Robert "Sammy" Moore for any loss of earnings and other benefits resulting from his suspension and discharge in violation of the Act. On July 15, 2003, the United States Court of Appeals for the Sixth Circuit entered its judgment enforcing the Board's Order.<sup>2</sup>

A controversy having arisen over the amount of backpay due Moore, on December 10, 2003, the Acting Regional Director 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 January 15, 2004, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by January 22, 2004, a motion for default judgment would be filed. Nevertheless, the Respondent did not file an answer.

On February 3, 2004, the General Counsel filed with the Board a Motion for Default Judgment. On February 19, 2004, 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.

<sup>1</sup> 335 NLRB 210.

<sup>2</sup> No. 02-1174.

Ruling on the Motion for Default 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. Further, Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed, 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 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 Default Judgment. Accordingly, we conclude that the net backpay due Moore is as stated in the compliance specification and we will order the Respondent to pay that amount to Moore, plus interest accrued to the date of payment.<sup>3</sup>

ORDER

The National Labor Relations Board orders that the Respondent, Tri-County Manufacturing and Assembly, Inc., Williamsburg, Kentucky, its officers, agents, successors, and assigns, shall make whole Robert "Sammy" Moore by paying him \$32,934, plus interest as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and State laws.

Dated, Washington, D.C. March 22, 2004

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Peter C. Schaumber, Member

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Dennis P. Walsh, Member

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Ronald Meisburg, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>3</sup> The specification notes that, although the Respondent claims that it ceased operations around June 2002, it failed to cooperate in the Region's compliance investigation by providing probative evidence substantiating its claim. Therefore, the Region alleges that Moore's backpay continues to accrue, and the specification computes his backpay to October 25, 2003. The specification further states that the Region reserves the right to amend the specification should subsequent evidence establish that Moore's wage rate would be higher than \$6.15 per hour.