

**Womac Industries, Inc. and Dorothy McKinney and Reginald Beasley and Westside Local No. 174, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), Cases 7-CA-13787, 7-CA-14187, and 7-CA-14288**

February 5, 1980

**SUPPLEMENTAL DECISION AND ORDER**

**BY CHAIRMAN FANNING AND MEMBERS  
PENELLO AND TRUESDALE**

On September 8, 1978, the National Labor Relations Board issued its Decision and Order<sup>1</sup> in the above-entitled proceeding in which it adopted in part and modified in part the recommended Order of the Administrative Law Judge, and directed the Respondent to take certain actions, including that of making whole the 28 employees named below for any losses suffered by reason of the Respondent's discrimination against them.<sup>2</sup> On May 2, 1979, the United States Court of Appeals for the Sixth Circuit entered its judgment enforcing the Board's Order.<sup>3</sup> A controversy having arisen over the amount of backpay due under the Board's Order, the Regional Director for Region 7, on June 13, 1979, issued and duly served on the Respondent a backpay specification and notice of hearing, alleging the amount of backpay due under the Board's Order and notifying the Respondent that it was required to file a timely answer pursuant to Section 102.54 of the Board's Rules and Regulations. Thereafter, on October 24, 1979, the Regional Director for Region 7 issued and duly served on the Respondent an amendment to the backpay specification with the same notification regarding the filing of an answer. The Respondent failed to file an answer to either the original or the amended backpay specification.

Thereafter, on November 23, 1979, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on December 5, 1979, the Board issued an order transferring the proceeding to the Board and Notice To Show Cause why counsel for the General Counsel's motion should not be granted. The Respondent failed to file a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>1</sup> 238 NLRB 43.

<sup>2</sup> In its backpay specification of June 13, 1979, attached as Exh. A to the General Counsel's Motion for Summary Judgment, the Regional Director inadvertently included Cedric Hill as the 29th discriminatee entitled to backpay. Based on the record in this case, in response to exceptions filed by

Upon the entire record in this proceeding, the Board makes the following:

**Ruling on the Motion for Summary Judgment**

Section 102.54 of the Board's Rules and Regulations provides, in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto . . . .

\* \* \* \* \*

(c) . . . 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 notice to the respondent, find the specification to be true and enter such order as may be appropriate. . . .

The original and amended backpay specifications were duly issued on June 13 and October 24, 1979, respectively, and were served on the Respondent by registered mail. Each specifically states that the Respondent shall, within 15 days from the date of the specification, file an answer to the specification with the Regional Director for Region 7 and that, to the extent an answer is not filed, the allegations of the specification shall be deemed to be admitted by the Respondent to be true and it may be so found by the Board.

According to counsel for the General Counsel's motion, on or about November 2, 1979, Respondent's counsel informed counsel for the General Counsel that the Respondent had received both the original and amended backpay specifications, and that it did not intend to file an answer to either. In response to this, on November 8, 1979, counsel for the General Counsel sent a letter of that same date to Respondent's counsel confirming Respondent's stated intention not to file such answers. The Respondent failed to file answers to the specifications due 15 days from June 13 and October 24, 1979, respectively, and as of November 15, 1979, the date of the Motion for Summary Judgment, the Respondent had not filed any answers and had taken no action to controvert its intent, expressed to the General Counsel on November 2, 1979, not to do so. The Respondent also failed to file a response to the Notice To Show Cause and, therefore, the allegations of the General Counsel's motion stand uncontroverted. As the Respondent has not filed answers to the specifications and has not offered any

the General Counsel and the Charging Party, this individual was found by the Board in its Decision (238 NLRB 43 at fn. 6) not to have been unlawfully laid off, and therefore not to be entitled to a backpay remedy. We have therefore deleted his name from the list of employees below.

<sup>3</sup> *N.L.R.B. v. Womac Industries, Inc.*, Docket 79-1152

explanation for its failure to do so, in accordance with the rules set forth above, the allegations of the specifications are deemed to be admitted as true<sup>4</sup> and so found by the Board without the taking of evidence in support of the said allegations.

Accordingly, on the basis of the allegations of the backpay specifications, which are accepted as true, the Board finds the facts as set forth therein, concludes that the net backpay due each of the 28 discriminatees, named below, is as stated in the computations of the specifications, and orders the payment thereof by the Respondent to the discriminatees.

#### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Womac Industries, Inc., Detroit, Michigan, its officers, agents, successors, and assigns, shall make whole each of the discriminatees named below, by payment to each of them of the amount set forth adjacent to his or her name, plus interest thereon to be computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977),<sup>5</sup> until payment of all backpay due is made, less tax withholdings required by Federal and state laws:

|                |          |
|----------------|----------|
| Frazier Abston | \$183.45 |
|----------------|----------|

<sup>4</sup> The only modification to the backpay specifications is that set out in fn. 2, *supra*.

|                    |            |
|--------------------|------------|
| Reginald Beasley   | \$8,675.85 |
| Alma Beauford      | 9,830.96   |
| Roy Leo Dawkins    | 1,109.56   |
| Michael Erickson   | 2,859.34   |
| Jaclyn Gibson      | 9,582.91   |
| Therman Glover     | 9,830.96   |
| Walter Hayes       | 7,327.38   |
| Tony Henry         | 9,830.96   |
| Robert Johnson     | 9,830.96   |
| Dorothy Mckinney   | 4,172.87   |
| Pearl Moore        | 26.79      |
| Edwin Murrell      | 9,191.21   |
| Valerie Murrell    | 7,661.23   |
| Calvin Propst      | 7,424.02   |
| Robert Ridges      | 9,830.96   |
| William Sanders    | 9,830.96   |
| Raymond Sawyer     | 9,830.96   |
| Doris Scott        | 5,281.71   |
| Theresa Siminich   | 8,664.10   |
| Marie Sims         | 2,542.38   |
| Willie Faye Spibey | 553.59     |
| Wendell Stoutemire | 7,009.15   |
| Angela Sullivan    | 9,830.96   |
| Carleton Vaughn    | 53.59      |
| Larry Walker       | 183.45     |
| Valeria White      | 53.59      |
| Leslie Wright      | 7,543.15   |

<sup>5</sup> See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).