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Stephen Womack, Kenneth Womack and James Womack, d/b/a Womack Brothers and Chauffeurs, Teamsters, Warehousemen and Helpers, Local Union No. 525, affiliated with International Brotherhood of Teamsters, AFL-CIO.
Case 14-CA-25027

March 29, 2001

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS LIEBMAN
AND WALSH

On June 22, 2000, the National Labor Relations Board issued a Decision and Order,¹ inter alia, ordering the Respondent, Stephen Womack, Kenneth Womack, and James Womack d/b/a Womack Brothers, its officers, agents, successors, and assigns, to comply with the terms of its 1995-1998 collective-bargaining agreement with the Union and to make whole applicants who would have been referred for employment by the Union pursuant to article 4 of the agreement for any loss of earnings and benefits suffered as a result of the Respondent's unlawful failure to comply with the agreement. On November 16, 2000, the United States Court of Appeals for the Seventh Circuit entered its judgment enforcing the Board's Order.²

A controversy having arisen over the amounts of backpay, health and welfare benefits, and pension benefits due the discriminatees, on January 11, 2001, the Regional Director for Region 14 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 copies of the compliance specification,³ the Respondent failed to file an answer.

On February 16, 2001, the Acting General Counsel filed with the Board a Motion for Summary Judgment,

¹ 331 NLRB No. 61.

² Case 00-3358.

³ On January 11, 2001 and February 5, 2001, copies of the compliance specification were served on the Respondent by certified mail, and were returned to the Regional Office with "refused" marked on the envelope. Additional copies of the compliance specification were served on the Respondent by regular mail. The documents served by regular mail have not been returned. On February 9, 2001, counsel for the Acting General Counsel attempted to contact the Respondent by telephone, and left a recorded voice message that if an answer to the compliance specification was not received by February 11, 2001, the Region would seek summary judgment. On February 12, 2001, counsel for the Acting General Counsel received a call from James Womack stating the Respondent would not be filing an answer to the compliance specification. The Respondent's failure or refusal to accept certified mail cannot defeat the purposes of the Act. See, e.g., *Michigan Expediting Service*, 282 NLRB 210 fn. 6 (1986).

with exhibits attached. On February 21, 2001, 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 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 Acting General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay, health and welfare contributions and pension contributions due the discriminatees and the Funds is as stated in the compliance specification, and we will order payment by the Respondent of said amounts, plus interest accrued to the date of payment, as set forth in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Stephen Womack, Kenneth Womack, and James Womack d/b/a Womack Brothers, Lenzburg, Illinois, its officers, agents, successors, and assigns, shall make whole the individuals and entities named below, by paying them the amounts following their names, plus interest and minus tax withholdings required by Federal and state laws:

Floyd Jay	\$323.36
George Cannon	323.36
Mike Hamilton	323.36
Bill Bellm	<u>323.36</u>
Total Backpay due Employees:	\$1,293.44

Health and Welfare Fund: ⁴	\$279.04
Pension Fund: ⁵	<u>142.40</u>
Total due the Funds:	\$421.44
Grand Total Due:	\$1,714.88

Dated, Washington, D.C. March 29, 2001

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John C. Truesdale,	Chairman
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Wilma B. Liebman,	Member
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Dennis P. Walsh,	Member

⁴ Illinois Conference of Teamsters and Employers Welfare Fund.
⁵ Central States Southeast and Southwest Areas Pension Fund.

(SEAL) NATIONAL LABOR RELATIONS BOARD