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Alamo Rent-A-Car and Teamsters Local 665, International Brotherhood of Teamsters, AFL-CIO. Cases 20-CA-29022, 20-CA-29132 and 20-CA-29336-1

September 27, 2002

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS LIEBMAN, COWEN, AND BARTLETT

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

On December 10, 2001, the Board issued a Decision and Order¹ that, among other things, ordered the Respondent to offer reinstatement to Danny Elvena, Michael Paulo, and Ubaldo Reyes, and to make them whole for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act.²

A controversy having arisen over the amount of backpay due the discriminatees, on March 28, 2002, the 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.

On May 10, 2002, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On May 15, 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 did not file a response. The allegations in the motion and in the compliance specification are therefore undisputed.³

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specifica-

¹ 336 NLRB No. 121 (2001).

² Member Cowen was not on the underlying decision in this case and expresses no views regarding the merits of that decision.

³ The compliance specification alleges that the Respondent waived its right under Sec. 10(e) and (f) of the Act to contest either the propriety of the Board's Order, or the findings of fact and conclusions of law underlying that Order.

tion. 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 General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent of these amounts to the discriminatees, plus interest accrued on the amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Alamo Rent-A-Car, San Francisco and Burlingame, California, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, 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:

Danny Elvena	\$ 13,655.81
Michael Paulo	118,762.58
Ubaldo Reyes	44,312.54
TOTAL	\$176,730.93

Dated, Washington, D.C. September 27, 2002

Wilma B. Liebman, Member

William B. Cowen, Member

Michael J. Bartlett, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD