

Alpha-X Corporation and Freight Drivers and Helpers Local Union No. 557, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO. Case 5-CA-12661

26 August 1983

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS
JENKINS AND HUNTER

On 27 January 1982 the National Labor Relations Board issued an Order¹ in the above-entitled proceeding in which it directed, *inter alia*, that Respondent make whole Patricia Williamson for any loss of pay she may have suffered resulting from Respondent's unfair labor practices against her in violation of Section 8(a)(1) and (3) of the Act. A controversy having arisen over the amount due under the terms of the Order, the Regional Director for Region 5, on 24 August 1982, issued and served on Respondent a backpay specification and notice of hearing setting forth the backpay and reimbursement due under the Board's Order. Respondent failed to file an answer to the specification.

By letter dated 16 September 1982 the Regional Director informed Respondent that it had not filed an answer, and that failing receipt of an answer by 23 September 1982 a Motion for Summary Judgment would be filed. By letter dated 12 October 1982 counsel for the General Counsel again informed Respondent that no answer to the specification had been received. Finally, by letter dated 21 October 1982 counsel for the General Counsel informed Respondent that, since no answer had been filed within 15 days of the date that the specification issued, she would move for summary judgment. No answer was filed.

On 24 November 1982 counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on 1 December 1982 the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent has not filed 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.

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

¹ Not reported in volumes of Board Decisions.

Ruling on the Motion for Summary Judgment

Section 102.54(c) of the Board's Rules and Regulations, Series 8, as amended, provides in relevant part with respect to a backpay specification:

(c) *Effect of failure to answer or to plead specifically and in detail to the specification.*—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 backpay specification duly served on Respondent specifically states that, pursuant to Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, Respondent shall, within 15 days from the date of the specification, file with the Regional Director an original and four copies of an answer to the specification. To the extent that such answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and Respondent shall be precluded from introducing any evidence controverting them. According to the uncontroverted allegations of the Motion for Summary Judgment, Respondent, by letters dated 16 September and 12 October 1982, was informed of the requirement to file an answer to the specification and that the General Counsel would move for summary judgment if no answer was filed. Again on 21 October 1982 Respondent was informed by certified mail that, since no answer was filed, the General Counsel would move for summary judgment.² As of 23 November 1982, the date of the Motion for Summary Judgment, Respondent has not filed an answer to the specification. Nor has it filed a response to the Notice To Show Cause.

As Respondent has not filed an answer to the specification or offered any explanation for its failure to do so, in accordance with the rule set forth above, the Board deems Respondent to have admitted all the allegations of the specification to be true and there are no matters in issue requiring a hearing. Accordingly, we grant the Motion for Summary Judgment. On the basis of the specification and the entire record in this case, the Board makes the following:

² Copies of the letters and the return receipts are attached to the Motion for Summary Judgment.

FINDINGS OF FACT

We find that Patricia Williamson is entitled to be made whole under the terms of the Board's Order by the payment to her of the amount calculated in the General Counsel's backpay specification; namely, by payment to her of the amount of \$3,021.75, plus interest accrued to the date of payment, minus the tax withholdings as required by Federal and state laws.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Alpha-X Corporation, Baltimore, Maryland, its officers, agents, successors, and assigns, shall make whole Patricia Williamson by paying to her the sum of \$3,021.75, plus interest accrued to the date of payment to be computed in the manner set forth in *Florida Steel Corp.*, 231 NLRB 651 (1977),³ less withholdings required by Federal and state laws.

³ See, generally, *Isis Plumbing Co.*, 138 NLRB 716 (1962).