

NOT TO BE INCLUDED
IN BOUND VOLUMES

LBP
Las Vegas, NV

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

WILLIS ROOF CONSULTING, INC.

and

Case 28-CA-20852

UNITED UNION OF ROOFERS, WATERPROOFERS,
AND ALLIED WORKERS, LOCAL 162, AFL-CIO

ORDER DENYING MOTION FOR RECONSIDERATION

On June 17, 2010, the National Labor Relations Board issued a Supplemental Decision and Order in this compliance proceeding, adopting the judge's finding that the Respondent was required to make contractual pension and health and welfare benefit contributions for the period December 30, 2005 through December 31, 2006.¹ The Board also adopted the judge's finding that the record failed to show that the parties' collective-bargaining agreement contained an automatic rollover provision. Accordingly, the Board agreed with the judge that the Respondent was not obligated to make benefit contributions for years 2007 and 2008. Finally, the Board denied the Charging Party's request

¹ 355 NLRB No. 48 (2010).

In the unfair labor practice phase, the Board found that the Charging Party and the Respondent had entered into a collective-bargaining agreement pursuant to Sec. 8(f) of the Act for the period November 1, 2005 through December 31, 2006, and that the Respondent had violated Sec. 8(a)(5) and (1) by failing to make certain benefit contributions required by the agreement. See 349 NLRB No. 24 (2007) (not reported in bound volumes).

that any interest on the amounts due be compounded.² On July 12, 2010, the Charging Party filed a motion for reconsideration.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having duly considered the matter, we find that the Charging Party's motion does not present "extraordinary circumstances" warranting reconsideration under Section 102.48(d)(1) of the Board's Rules and Regulations.³

1. The Charging Party argues that the Board should reconsider its decision not to award compound interest. While the Charging Party's motion was pending, the Board issued its decision in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), announcing a new practice of compounding interest daily on backpay and other monetary awards. That practice, however, does not apply to cases, like this one, that were already in the compliance stage when the decision in *Kentucky River* issued. See *Rome Electrical Systems*, 356 NLRB No. 38, slip op. at 1 fn. 2 (2010).

2. The Charging Party contends that the Board failed to address the testimony of Union Representative Gabriel Perea regarding Charging Party's Exhibit 1. The Charging Party contends that Perea identified the exhibit, which contained an automatic rollover provision, as the agreement reached by the parties.

² 355 NLRB No. 48, slip op. at 1 fn. 2.

³ Member Pearce did not participate in the Board's Supplemental Decision and Order, but he agrees that the Charging Party has not shown extraordinary circumstances warranting reconsideration of that decision.

We disagree. The judge thoroughly discussed Perea's testimony and expressly found that Perea did not identify the exhibit as embodying the parties' agreement. After a thorough review of the record, we agreed with the judge and adopted his finding. The Charging Party's motion presents no grounds on which to reconsider our finding.

It is ordered, therefore, that the Charging Party's motion for reconsideration is denied.

Dated, Washington, D.C., July 1, 2011.

Wilma B. Liebman, Chairman

Craig Becker, Member

Mark Gaston Pearce, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD