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Bobbitt Electrical Service, Inc. and International Brotherhood of Electrical Workers, Local Union No. 481, a/w International Brotherhood of Electrical Workers. Case 25–CA–31185

June 7, 2011

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE
AND HAYES

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

On May 28, 2010, the Board issued a Decision and Order¹ that, among other things, ordered the Respondent to make discriminatee Robert Scott whole for any loss of earnings and other benefits he may have suffered as a result of the Respondent's discharging him in violation of Section 8(a)(3) and (1) of the Act.

A controversy having arisen over the amount of backpay due the discriminatee, on November 12, 2010, the Acting Regional Director issued a compliance specification and notice of hearing alleging the amount of backpay due under the Board's Order. The compliance specification notified 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.

By letter dated February 17, 2011, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by March 3, 2011, a motion for default judgment would be filed. To date, the Respondent has failed to file an answer.

On April 11, 2011, the Acting General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On April 12, 2011, 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.

¹ 355 NLRB No. 37 (2010).

Ruling on the Motion for Default 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 specification. Section 102.56(c) provides that if the respondent fails to file an 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 default 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 we grant the Acting General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due Robert Scott is as stated in the compliance specification, and we will order the Respondent to pay that amount to the discriminatee, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Bobbitt Electrical Service, Inc., Indianapolis, Indiana, its officers, agents, successors, and assigns, shall make whole Robert Scott by paying him the amount following his name, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and State laws:²

Robert Scott \$3,302.88

Dated, Washington, D.C. June 7, 2011

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

² The Board has declined to apply its new policy, announced in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), of daily compounding of interest on backpay awards, in cases such as this, that were already in the compliance stage on the date that decision issued. *Rome Electrical Systems, Inc.*, 356 NLRB No. 38, slip op. at 1 fn. 2 (2010).

(SEAL) NATIONAL LABOR RELATIONS BOARD