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Salon/Spa at Boro, Inc. and Natalie Ann Lakes and Elizabeth A. Frith. Cases 9–CA–45349, 9–CA–45426, and 9–CA–45538

October 27, 2011

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS BECKER
AND HAYES

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

On December 30, 2010, the Board issued a Decision and Order¹ that, among other things, ordered the Respondent to make whole discriminatees Natalie Ann Lakes and Elizabeth A. Frith for any loss of earnings and other benefits they may have suffered as a result of their unlawful discharges in violation of Section 8(a)(1) of the Act.

A controversy having arisen over the amount of backpay due the discriminatees, on July 29, 2011, the 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 August 22, 2011, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by September 1, 2011, a motion for default judgment would be filed. To date, the Respondent has failed to file an answer.

On September 8, 2011, the Acting General Counsel filed with the Board a Motion for Default Judgment and a memorandum in support, with exhibits attached. On September 9, 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.

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 Natalie Ann Lakes and Elizabeth A. Frith is as stated in the compliance specification, and we will order the Respondent to pay those amounts to the discriminatees, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Salon/Spa at Boro, Inc., Springboro, Ohio, its officers, agents, successors, and assigns, shall make whole Natalie Ann Lakes and Elizabeth A. Frith by paying them the amounts following their names, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), enf. denied on other grounds sub nom., *Jackson Hospital Corp. v. NLRB*, 647 F.3d 1137 (D.C. Cir. 2011), and minus tax withholdings required by Federal and State laws:

Natalie Ann Lakes	\$21,114
Elizabeth A. Frith	22,400
TOTAL BACKPAY DUE:	\$43,514

Dated, Washington, D.C. October 27, 2011

Mark Gaston Pearce, Chairman

Craig Becker, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ 356 NLRB No. 69.