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270 NLRB No. 32

D--1584
Arecibo, PR and
New York, NY

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

ALLE ARECIBO CORPORATION AND ALLE INDUSTRIES LTD.

and

INTERNATIONAL LADIES GARMENT WORKERS UNION, LOCAL 601, AFL--CIO

Cases 24--CA--4496, 24--CA--4563, and 24--CA--4614

SUPPLEMENTAL DECISION AND ORDER

On 30 September 1982 the National Labor Relations Board issued a Decision and Order finding, inter alia, that the Company, the Respondent, violated Section 8(a)(3) and (1) of the Act by laying off and locking out 14 employees in order to eliminate International Ladies Garment Workers Union, Local 601, AFL--CIO, as the employees' collective-bargaining representative.[1] The Board ordered, inter alia, that the Company make whole the 14 employees for any loss of pay they may have suffered by reason of the discrimination practiced against them. On 30 August 1983 the United States Court of Appeals for the Second Circuit entered its decree enforcing in full the Board's Order, including its backpay provisions. A controversy having arisen over the amount of backpay due under the terms of the Board's Order as enforced by the court, the Regional Director for Region 24 issued and served on the Company a backpay

[1] 264 NLRB 1267. Chairman Dotson and Member Hunter did not participate in the Board's previous decision.

specification and notice of hearing 14 November 1983. The backpay specification and notice of hearing set forth certain allegations with respect to the amount of backpay due to the 14 employees under the Board's Order, and notified the Company that it must file a timely answer pursuant to the Board's Rules and Regulations. On 12 January 1984 the Regional Director for Region 24 extended until 19 January 1984 the time for the Company to file an answer to the backpay specification. The Regional Director advised the Company that a Motion for Summary Judgment would be filed unless an answer was received by 19 January 1984. The Company has not filed an answer.

On 2 February 1984 the General Counsel filed a Motion for Summary Judgment. On 8 February 1984 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 Company filed no response. The allegations in the motion are therefore undisputed.

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

Ruling on Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations provides in pertinent part:

> (a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto . . . .
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> . . . .
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> (c) . . . 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 specifically states that the Company shall file an answer to the specification within 15 days from the date of service. The specification further states that if the answer fails without adequate explanation to deny the allegations in the manner required under the Board's Rules

and Regulations the allegations shall be deemed to be admitted to be true and the Company shall be precluded from introducing any evidence controverting them.

The Company has not filed an answer to the specification and has not explained its failure to do so. The allegations of the specification are therefore deemed to be admitted to be true. Accordingly we conclude that the net backpay due to the 14 employees is as stated in the specification and we shall order that the Company make payment to those employees.

ORDER

The National Labor Relations Board orders that the Respondent, Alle Arecibo Corporation and Alle Industries Ltd., Arecibo, Puerto Rico, and New York, New York, its officers, agents, successors, and assigns, shall make whole the employees named below by paying to them the amounts set forth opposite their names, plus interest to be computed in the manner prescribed in Florida Steel Corp., 231 NLRB 651 (1977),[2] until payment of all backpay is made, less the tax withholdings required by Federal and state law:

Angelina Alicea	$1342
Luis Aviles	1037
Hipolito Candelaria	1644
Ramona Caraballo	906
Sofia Cordero	555
Iris Aida Dorta	187
Margarita Franqui	1905
Isabel Lopez	1720

[2] See generally Isis Plumbing Co., 138 NLRB 716 (1962).

Carmen Lugo	214
Josefina Nieves	828
Maria Nunez	1005
Mercedes Rios	612
Isabel Vargas	653
Carmen Delia Velez	1372

Dated, Washington, D.C. 30 April 1984

Donald L. Dotson, Chairman

Don A. Zimmerman, Member

Robert P. Hunter, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD