

NOT INCLUDED

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IN BOUND VOLUMES

Detroit, MI

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

FERGUSON ENTERPRISES, INC.

and

Case 7-CA-52306

JOSEPH LAPHAM

ORDER DENYING MOTION FOR RECONSIDERATION

On September 22, 2010, the National Labor Relations Board issued a Decision and Order¹ in this proceeding finding, in relevant part, that the Respondent violated Section 8(a)(1) of the Act by suspending, and then laying off, all members of one of its utility crew because two crew members had filed prevailing wage claims against it.

On October 15, 2010, the Respondent filed a motion for reconsideration. The Acting General Counsel filed an opposition to the motion.

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

Having duly considered the Respondent's motion for reconsideration, we find that it has failed to present any "extraordinary circumstances" warranting reconsideration.²

We thus deny the Respondent's motion as lacking merit.

¹ 355 NLRB No. 189.

² See Sec. 102.48(d)(1), NLRB Rules and Regulations. Even accepting the Respondent's explanation of its exception no. 3, we nonetheless find that the judge's conclusion, that the Respondent suspended and laid off George Cook, William Lewis, and Miles Reynolds, Jr. to mask a discriminatory motive for its suspensions and layoffs of Joseph Lapham and David Hall, met the requirements of Sec. 102.45(a) of the

ORDER

It is ordered that the Respondent's motion for reconsideration is denied.

Dated December 17, 2010, Washington, D.C.

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

Board's Rules and Regulations. The judge's factual finding that Supervisor Miles Reynolds, Sr. acknowledged that the suspension of the entire crew was because Lapham and Hall filed prevailing wage claims established the discriminatory motive. The judge cited in support of his finding *Jack August Enterprises, Inc.*, 232 NLRB 881 (1977), enf. 583 F.2d 575 (1st Cir. 1978), in which the Board had invoked a similar rationale. *Id.* at 900.