

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

NATIONAL LABOR RELATIONS BOARD)	
)	
Petitioner)	No. 15-2567
)	
v.)	Board Case Nos.
)	7-CA-138249
UNITED STATES POSTAL SERVICE)	7-CA-138262
)	
Respondent)	

**MOTION OF THE NATIONAL LABOR RELATIONS BOARD
FOR ENTRY OF DEFAULT JUDGMENT**

To the Honorable, the Judges of the United States
Court of Appeals for the Sixth Circuit:

The National Labor Relations Board (“the Board”), by its Deputy Associate General Counsel, respectfully moves this Court for entry of a default judgment against the United States Postal Service (“USPS”). The Court should enter a default judgment because USPS failed to file an answer to the Board’s application for enforcement as required by Rule 15(b)(2) of the Federal Rules of Appellate Procedure. In addition, USPS has failed to file an appearance of counsel in this case. In support of its motion, the Board shows:

1. On December 22, 2015, the Board filed an application for enforcement of its Order, which issued against USPS on September 25, 2015, and is reported at 363 NLRB No. 11.

2. The Board duly complied with all service requirements set forth in Rule 15(c) when filing its application for enforcement.

3. Pursuant to Rule 15(b)(2)'s requirement that a respondent answer an application for enforcement within 21 days, the Court, in its case-opening letter, directed USPS to file its response by January 11, 2016.¹ Rule 15(b)(2) further provides that, “[i]f the respondent fails to answer in time, the court will enter judgment for the relief requested.” The case-opening letter also instructed the parties to file their appearances of counsel and other-case opening forms by January 5, 2016.

4. On January 6, 2016, the Court, by email, notified the parties that their case-opening forms were overdue and instructed them to file those documents by January 7, 2016. In its email, the Court again reminded USPS that its answer was due January 11, 2016.

5. On January 6, 2016, Board Counsel filed her appearance. Counsel for USPS has not, to date, filed an appearance in this case.

6. On January 12, 2016, Board Counsel telephoned Roderick D. Eves, USPS's counsel in the underlying Board proceeding. Board counsel reminded Mr. Eves that USPS had failed to file its answer by the Court's deadline and advised

¹ That date is 20, not 21, days from the date the Board filed its application for enforcement. Either way, USPS has failed to meet its deadline.

Mr. Eves that the Board would request from the Court a default judgment if USPS did not file its answer.

7. USPS, however, has not filed its answer as required by Rule 15(b)(2). To date, the Board has not been served with an answer, nor has an answer been docketed on PACER. Because USPS has failed to timely file an answer, this Court should enter a judgment enforcing the Board's Order. *See NLRB v. Johnson Elec. Co.*, 472 F.2d 161, 161 (6th Cir. 1973) (failing to file answer within prescribed time limit warrants entry of default judgment).

8. A proposed judgment is attached for the Court's convenience.

9. Given USPS's failure to file an answer, the Board, pursuant to Rule 17(a), is relieved from its obligation to file with the Court the record in this case. Accordingly, unless the Court orders otherwise, the Board will not file the record.

WHEREFORE, the Board respectfully requests that the Court grant the Board's motion for entry of a default judgment, and enforce the Board's Order in full.

Respectfully submitted,

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, SW
Washington, DC 20570

Dated at Washington, DC
this 19th day of January 2016

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2016 I electronically filed the foregoing documents with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the CM/ECF system. I certify that the foregoing documents will be served via the CM/ECF system on the following counsel, who is a registered CM/ECF user.

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Dated at Washington, DC
this 19th day of January 2016