



UNITED STATES GOVERNMENT

NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

April 30, 2018

Clerk, United States Court of
Appeals for the Seventh Circuit
Everett McKinley Dirksen Courthouse
219 South Dearborn Street, Rm. 2722
Chicago, IL 60604

Re: *NLRB v. Buddy's Parking Company,
LLC*, Board Case No. 13-CA-202604

Dear Clerk:

I am enclosing the Board's application for summary entry of a judgment enforcing the Board's order in this case and a proposed judgment.

Please serve a copy of the application on Respondent, whose addresses appear on the service list. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

/s/ Linda Dreeben

Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, S.E.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

RESPONDENT:

Carlos Castillo
Buddy's Parking
412 S. Dearborn St.
Chicago, IL 60605-1107

RESPONDENT:

Carlos Castillo
Buddy's Parking Company LLC
8649 North Laramie
Skokie, IL 60077

Tel: (312) 600-9556

Fax: (312) 600-9556

Email: castloscastillo1969@gmail.com

CHARGING PARTY:

Jayna M. Brown, Esq., Staff Attorney
Teamsters Local Union No. 727
1300 Higgins Road, Suite 111
Park Ridge, IL 60068-5764

Tel: (847) 696-7500

Fax: (847) 720-4984

Email: jayna@teamsterslocal727.org

REGIONAL DIRECTOR:

Peter Sung Ohr, Regional Dir.
National Labor Relations Board
The Rookery Building
209 South LaSalle Street, Ste. 900
Chicago, IL 60604-52008

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case No.:
BUDDY’S PARKING COMPANY, LLC	:	13-CA-202604
	:	
Respondent	:	

APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT
ENFORCING AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

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

The National Labor Relations Board (the “Board”), pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against Buddy’s Parking Company, LLC (“Respondent”). The Board is entitled to summary enforcement because Respondent failed to file an answer to the Board’s unfair labor practice complaint and the Board entered an order by default. In support, the Board shows:

A. Jurisdiction of this Court

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the activities

giving rise to this proceeding occurred in Illinois. The Board's final order issued on March 14, 2018, and is reported at 366 NLRB No. 33.

B. Proceedings Before the Board

1. On November 16, 2017, the General Counsel issued a complaint in Case No. 13-CA-202604, charging Respondent with certain violations of the Act. The complaint, in part, advised the Respondent that under the Board's Rules (29 C.F.R. 102.20 and 102.21), the Respondent was required to file an answer by November 30, 2017, and that if the Respondent failed to file an answer the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the allegations in the complaint are true.

2. Respondent did not file an answer.

3. On December 12, 2017, counsel for the General Counsel sent Respondent a letter stating that no answer had been received to the Complaint and Notice of Hearing. The letter notified Respondent that if an answer is not received by December 19, 2017, the Region will file a Motion for Default Judgment with the Board.

4. Respondent did not file an answer.

5. On December 22, 2017, counsel for the General Counsel filed with the Board a Motion for Default Judgment based upon the Respondent's failure to file an answer to the complaint.

6. By order dated January 4, 2018, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until January 18, 2018, to file with the Board, a response to the Motion for Default Judgment.

7. Respondent did not file a response. The allegations in the motion were therefore undisputed.

8. The Board, on March 14, 2018, issued its Decision and Order, granting the Motion for Default Judgment in the absence of good cause being shown for Respondent's failure to file a timely answer, and entering an appropriate order against the Respondent.

C. The Board Is Entitled to Summary Enforcement of Its Order

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Where a respondent in a Board proceeding fails to file an answer to the unfair labor practice complaint in a timely manner, the Board may, pursuant to Board Rule 102.20, absent a showing of "good cause," deem the complaint's allegations admitted, and then may enter an order, essentially by default, against the respondent. No good cause for Respondent's failure to file an answer was shown here.

It is settled that the Board is entitled to have that default judgment summarily enforced. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court

of appeals “unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.” Interpreting that requirement, courts have consistently held that a respondent’s failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary enforcement of its order. *See, e.g., NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 830 (9th Cir. 1991); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973). No such circumstances have been shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondent, enter judgment summarily enforcing the Board’s order in full. A proposed judgment is attached.

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated in Washington, D.C.
this 30th day of April, 2018

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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Petitioner	:	
v.	:	
	:	Board Case No.:
BUDDY’S PARKING COMPANY, LLC	:	13-CA-202604
	:	
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Buddy’s Parking Company, LLC, its officers, agents, successors, and assigns, enforcing its order dated March 14, 2018, in Case No. 13-CA-202604, reported at 366 NLRB No. 33, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Buddy’s Parking Company, LLC, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Judge, United States Court of
Appeals for the Seventh Circuit

NATIONAL LABOR RELATIONS BOARD

v.

BUDDY'S PARKING COMPANY, LLC

ORDER

Buddy's Parking Company, LLC, Chicago, Illinois, its officers, agents, successors, and assigns, shall take the following affirmative action necessary to effectuate the policies of the Act.

1. Cease and desist from

- (a) Failing and refusing to bargain collectively with Teamsters Local 727 (the Union) as the exclusive collective-bargaining representative of the employees in the unit set forth below, about the effects of the Respondent's decision to discharge all eight bargaining unit employees at its 2 East Oak Street, Chicago, Illinois location:

All Cashiers, hikers, attendants, porters, maintenance men/custodians, drive men, washers, collectors, customer service representatives (excluding those who do sales and/or marketing), drivers, dispatchers, bellmen, doormen and supervisors who perform bargaining unit work, but excluding clerical employees, guards, professional employees and supervisors as defined in the National Labor Relations Act.

- (b) Failing and refusing to bargain collectively with the Union by failing and refusing to respond to and process two grievances related to change of address form and back dues owed.
- (c) Refusing to bargain collectively with the Union by failing and refusing to furnish the Union with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.
- (d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purposes of the Act.

- (a) On request, bargain collectively and in good faith with the Union about

the effects of the Respondent's decision to discharge all eight bargaining unit employees at its 2 East Oak Street location, and reduce to writing and sign any agreement reached as a result of such bargaining.

- (b) Pay the eight discharged bargaining unit employees formerly employed at the Respondent's 2 East Oak Street location their normal wages for the period set forth in the remedy section of this decision, with interest.
- (c) Compensate affected employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 13, within 21 days of the date of the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.
- (d) On request, respond to and process two grievances related to change of address form and back dues owed.

Furnish to the Union in a timely manner the information requested by the Union on June 28, July 3 and 10, 2017.

- (e) Within 14 days after service by the Region, post at its Chicago, Illinois facilities copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed its facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 14, 2017.
- (f) Within 21 days after service by the Region, file with the Regional Director for Region 13 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively with Teamsters Local 727 (the Union) as the exclusive collective-bargaining representative of our employees in the unit set forth below, about the effects of our decision to discharge all eight bargaining unit employees at our 2 East Oak Street, Chicago, Illinois location:

All Cashiers, hikers, attendants, porters, maintenance men/custodians, drive men, washers, collectors, customer service representatives (excluding those who do sales and/or marketing), drivers, dispatchers, bellmen, doormen and supervisors who perform bargaining unit work, but excluding clerical employees, guards, professional employees and supervisors as defined in the National Labor Relations Act.

WE WILL NOT fail and refuse to bargain collectively with the Union by failing and refusing to respond to and process two grievances related to change of address form and back dues owed.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain collectively and in good faith with the Union about the effects of our decision to discharge all eight bargaining unit employees at our 2 East Oak Street location, and WE WILL reduce to writing and sign any agreement reached as a result of such bargaining.

WE WILL pay the eight discharged bargaining unit employees formerly employed at our 2 East Oak Street location their normal wages for the period set forth in the

Decision and Order of the National Labor Relations Board, with interest.

WE WILL compensate our affected employees for the adverse tax consequences, if any, of receiving lump-sum backpay awards and WE WILL file with the Regional Director for Region 13, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay to the appropriate calendar years for each employee.

WE WILL, on request, respond to and process two grievances related to change of address form and back dues owed.

WE WILL furnish to the Union in a timely manner the information requested by the Union on June 28, July 3 and 10, 2017.

BUDDY'S PARKING CO.

The Board's decision can be found at <https://www.nlr.gov/case/13-CA-202604> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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	:	
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment and proposed judgment, in the above-captioned case, has this day been served by mail upon the following parties at the addresses listed below:

Carlos Castillo
Buddy's Parking
412 S. Dearborn St.
Chicago, IL 60605-1107

Carlos Castillo
Buddy's Parking Company LLC
8649 North Laramie
Skokie, IL 60077

/s/ Linda Dreeben
Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1015 Half Street, S.E.
Washington, D.C. 20570

Dated at Washington, D.C.
this 30th day of April, 2018