



UNITED STATES GOVERNMENT

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, D.C. 20570

February 6, 2019

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. Chicago Teachers Union*,  
Board Case Nos. 13-CA-207629 and 13-  
CA-213316

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 address appears 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/ David Habenstreit

David Habenstreit  
Assistant 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:

Jesse Sharkey, V.P.  
Chicago Teachers Union  
1901 W. Carroll Ave.  
Chicago, IL 60612-2401

Phone: (312) 329-6222  
Email: jessesharkey@ctulocal1.com

THE BOARD IS NOT PRESENTLY  
AWARE OF COUNSEL FOR  
RESPONDENT

CHARGING PARTY:

John Kugler  
3701 S. Winchester Ave.  
Apt 3R  
Chicago, IL 60609-2038

Phone: (312) 203-1534  
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REGIONAL DIRECTOR:

Peter Sung Ohr, Regional Dir.  
National Labor Relations Board  
219 S. Dearborn St., Ste 808  
Chicago, IL 60604-5208

Phone: (312) 353-7570

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	No.
Petitioner	:	
v.	:	
	:	Board Case Nos.:
CHICAGO TEACHERS UNION	:	13-CA-207629
	:	13-CA-213316
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 Chicago Teachers Union (“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 December 12, 2018 and is reported at 367 NLRB No. 50.

### **B. Proceedings Before the Board**

1. On May 7, 2018, the General Counsel issued a consolidate complaint in Case Nos. 13-CA-207629 and 13-CA-213316, 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 May 21, 2018, 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 June 19, 2018, 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 June 26, 2018, the Region will file a Motion for Default Judgment with the Board.

4. Respondent did not file an answer.

5. On July 9, 2018, 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 July 11, 2018, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until July 25, 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 December 12, 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/ David Habenstreit  
David Habenstreit  
Assistant General Counsel  
National Labor Relations Board  
1015 Half Street, S.E.  
Washington, D.C. 20570

Dated in Washington, D.C.  
this 6th day of February 2019

UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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CHICAGO TEACHERS UNION	:	13-CA-207629
	:	13-CA-213316
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, Chicago Teachers Union, its officers, agents, successors, and assigns, enforcing its order dated December 12, 2018, in Case Nos. 13-CA-207629 and 13-CA-213316, reported at 367 NLRB No. 50, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Chicago Teachers Union, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

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Judge, United States Court of  
Appeals for the Seventh Circuit

# NATIONAL LABOR RELATIONS BOARD

v.

## CHICAGO TEACHERS UNION

### ORDER

Chicago Teachers Union, Chicago, Illinois, its officers, agents, successors, and assigns shall

1. Cease and desist from
  - (a) Selectively and disparately enforcing a rule prohibiting employees from conducting union business on work time by applying it only against employees who filed unfair labor practice charges against it.
  - (b) Threatening to retain counsel and pursue unfair labor practice charges against PSEU because employees engaged in union and protected concerted activities.
  - (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
  - (a) Rescind the October 4, 2017 email selectively and disparately enforcing a rule prohibiting employees from conducting union business on work time.
  - (b) Rescind the January 18, 2018 email threatening to retain legal counsel and pursue unfair labor practice charges against PSEU because employees engaged in union and protected concerted activities.
  - (c) Within 14 days after service by the Region, post at its facility in Chicago, Illinois, 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. If the Respondent has gone out of business or closed the facility 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 October 4, 2017.

- (d) 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 selectively and disparately enforce our work rule prohibiting you from conducting union business during work time by applying it only against employees who filed unfair labor practice charges against us.

WE WILL NOT threaten to retain legal counsel and pursue unfair labor practice charges against the Union because employees engaged in union and protected concerted activities.

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 rescind the October 4, 2017 email we sent to employees about violating our rule prohibiting employees from conducting union business during work time.

WE WILL rescind the January 18, 2018 email we sent to employees threatening to retain legal counsel and pursuing unfair labor practice charges because employees engaged in union and protected concerted activities.

#### CHICAGO TEACHERS UNION

The Board's decision can be found at [www.nlr.gov/case/13-CA-207629](http://www.nlr.gov/case/13-CA-207629) 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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CHICAGO TEACHERS UNION	:	13-CA-207629
	:	13-CA-213316
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 party at the address listed below:

Jesse Sharkey, Vice President  
Chicago Teachers Union  
1901 W. Carroll Ave.  
Chicago, IL 60612-240

/s/ David Habenstreit  
David Habenstreit  
Assistant General Counsel  
National Labor Relations Board  
1015 Half Street, S.E.  
Washington, D.C. 20570

Dated at Washington, D.C.  
this 6th day of February 2019