Boxart, Inc. *and* Teamsters Local 814. Case 29–CA–370489

July 24, 2026

DECISION AND ORDER

BY CHAIRMAN MURPHY AND MEMBERS PROUTY AND MAYER

The General Counsel seeks a default judgment in this case on the ground that Boxart, Inc. (the Respondent) has failed to file a timely answer to the complaint. Upon a charge filed by Teamsters Local 814 (the Union) on July 29, 2025, the General Counsel issued a complaint and notice of hearing on April 14, 2026, against the Respondent, alleging that it has violated Section 8(a)(3) and (1) of the Act.[1] The Respondent failed to file an answer.

On June 5, the General Counsel filed with the National Labor Relations Board a Motion for Default Judgment. Thereafter, on June 9, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. On June 23, the Respondent filed a timely response to the Notice to Show Cause and an untimely answer to the complaint.[2] On June 30, the General Counsel filed a reply.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is received on or before April 28, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the General Counsel's motion shows that by letter emailed to the Respondent's counsel on May 1, the Region advised the Respondent that an answer had not been received and that if the Respondent failed to file an answer by May 8, the Region would file a motion for default judgment. Thereafter, on May 13, the Respondent's counsel left a voicemail for the Region, stating that the Respondent had been sold and requesting an extension to May 22 to file an answer to the complaint. Then, on May 19, the Respondent's counsel e-filed a letter requesting an additional extension to May 29, again citing the Respondent's change in ownership and confirming his continued representation of the Respondent. On May 27, a secretary on behalf of the administrative law judge assigned to this case also reminded the Respondent of the need to file an answer "asap" in preparation for a pre-hearing conference. Nevertheless, the Respondent failed to file an answer and provided no explanation for its failure to do so.

In its response to the Notice to Show Cause, the Respondent asserts that good cause exists to allow for a late filing.[3] The Respondent's counsel explains that during the pendency of these proceedings, the Respondent was purchased by a separate entity due to "significant financial issues" and "incurred a significant legal bill that it was unable to satisfy." In short, the Respondent's counsel only filed the Respondent's answer, and its response to the Notice to Show Cause, once the balance for legal fees owed to counsel was fully satisfied. The Respondent submits that no undue prejudice would result from accepting its late-filed answer, and the General Counsel's motion for default judgment should be denied.

We find that the Respondent's failure to file a timely answer is not supported by a showing of good cause. The Respondent's inability to pay for counsel during the time period its answer was due does not constitute good cause for its failure to file a timely answer. See *Quality Investigations, Inc.*, 370 NLRB No. 138, slip op. at 1 fn. 4 (2021) ("Merely being unrepresented by counsel does not establish a good cause explanation for failing to respond to Board filings"); *Lockhart Concrete*, 336 NLRB 956, 956-957 (2001). Cf. *Harvey Reeds Lawn & Garden Care Servs. Co.*, 321 NLRB 1002, 1002 fn. 1 (1996) (finding the respondent's asserted "financial situation" and contemplation of bankruptcy did not constitute good cause for its failure to file an answer). Indeed, the Board has long held that being unrepresented by counsel does not establish good cause for the failure to file a timely answer. *Daviola Products, LLC d/b/a Imaginarium*, 366 NLRB No. 25, slip op. at 2 (2018) ("That the Respondent previously lacked knowledgeable counsel or, indeed, had no counsel at all, is not a basis for finding good cause for not filing a

[1] Hereinafter, all dates are in 2026 unless otherwise indicated.

[2] The Respondent titled its response as an "Opposition to Motion to Transfer Proceeding and Motion for Default Judgment." We have construed it as a response to the Notice to Show Cause.

[3] The Respondent cites Sec. 102.111(c) of the Board's Rules and Regulations, a precursor to Sec. 102.2(d), which allows late filings "only upon good cause shown based on excusable neglect and when no undue prejudice would result" and provides express instructions for late-filed documents. Per Sec. 102.2(d)(2), a Respondent must file "along with the document, a motion that states the grounds relied on for requesting permission to file untimely," accompanied by a sworn affidavit of the facts relied on to support the motion. The Board "strictly adhere[s] to [its] rule that the specific facts relied on to support the motion to accept a late filing shall be set forth in affidavit form and sworn to by individuals with personal knowledge of the facts." *W.R. Transp., LLC*, 366 NLRB No. 59 (2018) (quoting *Elevator Constructors Local 2 (Unitec Elevator Services Co.)*, 337 NLRB 426, 428 (2002)). The Respondent has not done so here; accordingly, we reject its untimely answer.

timely answer."). And where "a respondent, represented by counsel or not, fails to respond to complaint allegations until after the Notice to Show Cause has issued, despite having been notified in writing that it must do so, and fails to establish good cause for this failure, subsequent attempts to file an answer will be denied as untimely." *Perry Brothers Trucking, Inc*., 364 NLRB 58, 58 (2016) (citing cases); *Kenco Electric & Signs*, 325 NLRB 1118, 1118 (1998).

In addition, there is no merit to the Respondent's argument that its late filing should be excused because no party has been prejudiced by the delay. It is not necessary to show prejudice to a party to require the Respondent to comply with the Board's Rules. *South Atlantic Trucking*, 327 NLRB 534, 535 (1999).

Accordingly, in the absence of good cause being shown for the Respondent's failure to file a timely answer, we reject the answer filed on June 23, deem the factual allegations of the complaint to be admitted as true, and grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

At all material times, the Respondent has been a corporation with an office and place of business located at 79 N. 5th Street, Brooklyn, New York (the Brooklyn facility), where it has been engaged in the business of packing, crating, storing, and transporting fine art.

During the past 12-month period, which period is representative of its operations in general, the Respondent, in conducting its business operations, purchased and received at its Brookly facility goods valued in excess of $50,000 directly from enterprises located outside the State of New York.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

1. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Dennis Fisher	-	President/CEO
Kyle Quinn		Director of Production

2. On about June 27, 2025, the Respondent discharged employees Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto.

3. The Respondent engaged in the conduct described above because the Respondent believed that the named employees joined the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

Conclusion of Law

By the conduct described above in paragraphs 2 and 3, the Respondent has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) of the Act. The unfair labor practices of the Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(3) and (1) by discharging Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto because it believed that these employees joined the Union and engaged in concerted activities and to discourage other employees from engaging in these activities, we shall order the Respondent to offer Franklin, Gonzales, and Sekimotto full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

We shall also order that the Respondent make Franklin, Gonzales, and Sekimotto whole, with interest, for any loss of earnings and other benefits suffered as a result of the unlawful discharges. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horzons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010).

In accordance with the Board's decision in *Thryv, Inc.*, 372 NLRB No. 22 (2022), vacated in part on other grounds 102 F.4th 727 (5th Cir. 2024), the Respondent shall also compensate Franklin, Gonzales, and Sekimotto for any other direct or foreseeable pecuniary harms incurred as a result of their unlawful discharges, including reasonable search-for-work and interim employment expenses, if any, regardless of whether these expenses exceed interim earnings.[4] Compensation for these harms shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons,* supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

Further, we shall order the Respondent to compensate Franklin, Gonzales, and Sekimotto for the adverse tax consequences, if any, of receiving a lump-sum backpay award and to file a report with the Regional Director for Region 29 allocating the backpay awards to the appropriate calendar year(s). *AdvoServ of New Jersey, Inc.*, 363 NLRB 1324 (2016). In addition to the backpay allocation report, we shall order the Respondent to file with the Regional Director for Region 29 a copy of each affected employee's corresponding W-2 forms reflecting the backpay award. *Cascades Containerboard Packaging—Niagara*, 370 NLRB No. 76 (2021), as modified in 371 NLRB No. 25 (2021). The interest on backpay runs to the date of payment and should be computed at the rate prescribed in *New Horizons*, supra, compounded daily as prescribed in *Kentucky River Medical Center*, supra.

The Respondent shall also be required to remove from its files any reference to their discharges and to notify them, in writing, that it has done so and that the discharges will not be used against them in any way.

ORDER

The National Labor Relations Board orders that the Respondent Boxart, Inc., Brooklyn, New York, its officers, agents, successors, and assigns shall

1. Cease and desist from

(a) Discharging employees because the Respondent believes they have joined the Union and engaged in concerted activities and to discourage other employees from engaging in these activities,

(b) 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 policies of the Act.

(a) Within 14 days from the date of this Order, offer Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto full reinstatement to their former positions or, if those positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto whole for any loss of earnings and other benefits, and for any other direct or foreseeable pecuniary harms, suffered as a result of their discharges, in the manner set forth in the remedy section of this decision.

(c) Compensate Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar year(s) for each employee.

(d) File with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed by agreement or Board order or such additional time as the Regional Director may allow for good cause shown, a copy of each backpay recipient's corresponding W-2 form(s) reflecting the backpay awards.

(e) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto, and within 3 days thereafter, notify each discriminatee in writing that this has been done and that the discharges will not be used against them in any way.

(f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(g) Within 14 days after service by the Region, post at its facility in Brooklyn, New York, copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 29, 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

[4] As stated in *Performance Plumbing, LLC,* 374 NLRB No. 48, slip op. at 2 fn. 2 (2026), and *Lodi Volunteer Ambulance Rescue Squad, Inc.*, 374 NLRB No. 26, slip op. at 3 fn. 3 (2026), Chairman Murphy and Member Mayer find no need at this time to express an opinion whether the novel remedies announced by the Board majority in *Thryv* are permissible under the Act. They would be open to reconsideration of that precedent in a future proceeding, but in the absence of a three-member majority to overrule it at this time, they agree to apply *Thryv*.

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

communicates with its employees by such means. The Respondent shall take reasonable steps 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 June 27, 2025.

(h) Within 21 days after service by the Region, file with the Regional Director for Region 29 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.

Dated, Washington, D.C. July 24, 2026

James R. Murphy, Chairman

David M. Prouty, Member

Scott A. Mayer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY 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 discharge you because we believed you joined the Union or engaged in concerted activities or to discourage any of you from engaging in these 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, within 14 days from the date of the Board's Order, offer Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges they previously enjoyed.

WE WILL make Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto whole for any loss of earnings and other benefits resulting from their unlawful discharges, less any net interim earnings, plus interest, and WE WILL also make them whole for any other direct or foreseeable pecuniary harms suffered as a result of their unlawful discharges, including reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

WE WILL file with the Regional Director for Region 29, within 21 days of the date the amount of backpay is fixed by agreement or Board order or such additional time as the Regional Director may allow for good cause shown, a copy of Sofia Franklin's, Ruaridh Gonzales', and Henry Sekimotto's corresponding W-2 forms reflecting the backpay awards.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to our unlawful discharge of Sofia Franklin, Ruaridh Gonzales, and Henry Sekimotto, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the discharge will not be used against them in any way.

BOXART, INC.

The Board's decision can be found at www.nlrb.gov/case/ 29-CA-370489 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.