

EMPLOYMENT STANDARDS TRIBUNAL

An appeal

- by -

Darvonda Nurseries Ltd.

("Darvonda")

- of a Determination issued by -

The Director of Employment Standards

pursuant to section 112 of the
Employment Standards Act R.S.B.C. 1996, C.113 (as amended)

PANEL: David B. Stevenson

FILE No.: 2020/078

DATE OF DECISION: December 08, 2020

DECISION

SUBMISSIONS

Michael Thompson

delegate of the Director of Employment Standards

OVERVIEW

1. On August 12, 2020, the Tribunal issued a decision, 2020 BCEST 103 (the “decision”), that considered an appeal filed under section 112 of the *Employment Standards Act* (the “ESA”) by Darvonda Nurseries Ltd. (“Darvonda”) of a Determination issued by Dawn Sissons, a delegate of the Director of Employment Standards (the “Director”), on April 16, 2020.
2. This decision dismissed all but one element of the appeal under section 114(1) of the *ESA*, which was whether there were reviewable errors in the regular wage calculation.
3. Darvonda submitted the errors were the result of incorrect information having been provided to the Director during the investigation and incorporated into the regular wage calculation and should be reviewed and corrected.
4. The Tribunal received submissions from the parties on that part of the appeal and, in BCEST 2020 116 (the “referral back decision”), I accepted there was an error which should be reviewed and corrected. I varied the Determination and referred the matter back to the Director to recalculate the wages owed to the complainant, Abraham (Paul) Houweling (“Mr. Houweling”).
5. This panel has received a Report, as well as documents provided by the parties to the Director (the “Report record”), from the Director on the referral back decision recalculating the total wages owed to be \$15,995.59, an amount that includes interest under section 88 of the *ESA*.
6. The Report record indicates that the Director provided Darvonda and Mr. Houweling with the recalculated wage amount and that both were invited to provide any response to it. Neither expressed any disagreement with the recalculation, although Darvonda expressed its continuing disagreement with the Determination and the appeal. That is not a concern I am able to address in this appeal decision.
7. The Report and the Report record was provided to Darvonda and Mr. Houweling and both were invited by the Tribunal to respond to it. Neither provided any response.
8. Based on the Report provided by the Director and the material in the Report record, I am in a position to finalize the appeal.
9. I accept the Report and vary the Determination accordingly.

ORDER

10. Pursuant to section 115 of the *ESA*, I order the Determination dated April 16, 2020, be varied to show the amount of total wages owing to Mr. Houweling to be \$15,995.59, together with any interest that has accrued under section 88 of the *ESA*.

David B. Stevenson
Member
Employment Standards Tribunal