Citation: Thomas Reekie (Re)
2023 BCEST 42

EMPLOYMENT STANDARDS TRIBUNAL

An application for reconsideration
pursuant to section 116 of the
*Employment Standards Act* R.S.B.C. 1996, C.113 (as amended)

- by -

Thomas Reekie

- of a Decision issued by -

The Employment Standards Tribunal

**PANEL:** Robert E. Groves

**FILE NO.:** 2023/057

**DATE OF DECISION:** June 13, 2023

# DECISION

## SUBMISSIONS

Thomas Reekie — on his own behalf

## OVERVIEW

1. Thomas Reekie (the "Applicant", or the "Complainant") applies for a reconsideration (the "Application") of a decision of a member of the Tribunal (the "Member") dated March 29, 2023 (the "Appeal Decision"). The application is brought pursuant to section 116 of the *Employment Standards Act* (the "*ESA*").

2. This matter arose when the Applicant delivered a complaint (the "Complaint") to the Employment Standards Branch (the "Branch") claiming that his former employer, Cloverdale Fuel Limited (the "Employer"), had failed to pay the compensation for length of service owed to him under section 63 of the *ESA*.

3. A delegate (the "Investigating Delegate") of the Director of Employment Standards (the "Director") investigated the Complaint and prepared an Investigation Report dated March 16, 2022 (the "Report").

4. Another delegate (the "Adjudicating Delegate") considered the information in the Branch file, including the Report and the parties' responses to it. The Adjudicating Delegate then issued a determination of the Complaint dated December 20, 2022 (the "Determination"). The Determination ordered that no contravention of the *ESA* had occurred. The Applicant's Complaint was dismissed.

5. The Applicant appealed the Determination pursuant to section 112 of the *ESA*. The Appeal Decision ordered that the appeal be dismissed, and that the Determination be confirmed, pursuant to sections 114(1)(f) and 115(1)(a) of the *ESA*, respectively.

6. I have before me the Applicant's Appeal Form and the Application, his submissions in support of both, the Determination and its accompanying Reasons (the "Reasons"), the Appeal Decision, and the record the Director was obliged to deliver to the Tribunal pursuant to section 112(5) of the *ESA*.

## THE REPORT

7. I rely on the Report for the summary of relevant facts that follows.

8. The Employer operates a trucking business. It employed the Applicant as one of its drivers.

9. On March 3, 2020, the Applicant sustained a workplace injury which prevented him from continuing to perform his duties. He saw his physician and filed a claim for benefits with WorkSafeBC.

10. The Employer offered modified duties to allow the Applicant to mitigate his wage loss during his period of recovery, but it took the position that the Applicant needed to provide confirmation from his physician that he was fit to return to work before he would be permitted to do so. The Employer delivered a return-to-work form to the Applicant for this purpose.

11. The Applicant did not return a completed return-to-work form to the Employer, at least not immediately. Instead, the Applicant told the Investigating Delegate he advised the Employer he would return to work once his physician signified his approval.

12. On March 13, 2020, the Applicant's physician certified that the Applicant could return to work without restrictions. The Applicant so informed the Employer. He also advised the Employer that he would deliver the completed return-to-work documentation when he reported for his next shift, on March 16, 2020.

13. On March 16, 2020, the Applicant attended at work. He found his delivery truck locked. The Applicant told the Investigating Delegate that it was not normal for his truck to be locked when he attended at work, as he was expected to begin work by inspecting and starting his truck before checking his duties in the office while his truck warmed up. The Applicant said that when he found his truck had been locked, he believed his Employer did not intend for him to work that day, and that he was going to be fired. He entered the Employer's business office and met, together, with the Employer's manager and assistant manager. The parties differed on what was said at the meeting.

14. The Applicant told the Investigating Delegate that the Employer's manager confirmed to him he was being fired. Both managers denied this allegation. They stated the Applicant became agitated when he was asked to provide his return-to-work form. They said the Applicant stated, "he did not have time for this" and that the Applicant took the discussion to mean he was fired. The managers said they assured the Applicant he was not being fired, and that they tried to stop him from leaving the meeting, but he stormed out, yelling profanities. Shortly thereafter, the Applicant re-entered the office with the completed return-to-work paperwork. The parties agree that the Applicant threw the documents on the floor and left the premises, never to return.

15. It is common ground that the Applicant, later on March 16, forwarded a text message to the Employer's manager advising the latter he could "just stick my last cheque and paperwork in the mail." The Employer's manager responded the same day with a text reading "[d]oes this mean you have resigned your position?" The Applicant did not reply.

16. The Employer's manager told the Investigating Delegate he also attempted to reach the Applicant by telephone. Again, he received no answer.

17. Thereafter, the Applicant failed to attend at work for scheduled shifts. On March 18, 2020, the Employer's manager sent a letter to the Applicant by registered mail confirming the events of March 16 and the Applicant's resignation. The Applicant did not respond. Instead, the Applicant delivered the Complaint to the Branch, on March 23, 2020.

18. In response to the Complaint, the Employer argued that no compensation for length of service was payable because the Applicant had resigned and, therefore, he had terminated his employment or, alternatively, the Applicant's employment was terminated for just cause.

19. The Applicant's position, argued throughout the Complaint proceedings, was that he was fired because he refused to comply with what he alleged to be the Employer's repeated acts of pressure exerted on him to refrain from filing an injury claim with WorkSafeBC, a posture the Applicant characterizes as "insurance

fraud". The actions of the Employer in this vein culminated in the meeting that occurred on March 16, 2020.

20. The Applicant told the Investigating Delegate he forwarded the March 16 text message to the Employer requesting that his last cheque and paperwork be mailed because he believed he had been fired and that he would not be returning to the Employer's premises. He said, too, that he did not respond to the text message from the Employer's manager later that day, querying whether the Applicant had resigned, because he believed the manager "was attempting to minimize his liability for severance."

21. The Applicant told the Investigating Delegate he received no telephone calls from the Employer following the March 16, 2020, meeting.

22. As for the March 18, 2020, letter he received from the Employer stating that the Applicant had resigned, the Applicant affirmed to the Investigating Delegate that he had no intention of resigning, and that he left the Employer's premises on March 16, 2020, because "he understood that he was being fired."

## THE DETERMINATION

23. The Reasons for the Determination state that the Adjudicating Delegate had reviewed all the evidence provided by the parties leading to the issuance of the Report and the parties' responses to it, and that the Reasons would "make reference to the evidence only as necessary to reach the required findings and to apply the relevant legislation."

24. The Adjudicating Delegate determined that the issue to be decided in the case was "whether the Employer terminated the Complainant's employment or whether he quit or otherwise abandoned his employment." The Adjudicating Delegate also stated, correctly, that the onus rested on the Employer to establish that its obligation to pay compensation for length of service had been discharged because the Applicant had "quit". The Reasons state further:

> It has been well established that the right to quit is personal to the employee and accordingly, there must be clear and unequivocal facts to support the conclusion that this right has been voluntarily exercised by the affected employee. The test for establishing when an employee can be determined to have quit his employment encompasses both a subjective and an objective element: subjectively, the employee must form an intention to quit employment, and objectively the employee must carry out an act inconsistent with his continued employment.

25. The Reasons then go on to say this:

> Although there is a dispute as to whether the Complainant stated that he quit his job or if he was fired, the decision will not turn on whether he stated he "quit" before leaving the office on March 16, 2020, rather on whether his actions following the meeting ought to be interpreted as quitting or abandoning his employment.

26. And later, regarding the March 16, 2020, meeting, and its aftermath, the Reasons state:

> …Though the parties dispute what was said at the meeting, I rely on the actions and evidence that occurred after this conversation.

27. Based on what transpired after March 16, 2020, the Adjudicating Delegate decided that the Applicant had resigned and, therefore, he had terminated his employment, thereby relieving the Employer from its statutory obligation to pay compensation for length of service. The Adjudicating Delegate's rationale is captured in the following excerpts from the Reasons:

> The first part of the test to determine if an employee quit or abandoned his employment is to show that subjectively, the employee formed an intention to quit employment. I find that the text message sent by the Complainant on March 16, 2020 that requested his "last cheque and paperwork" and failing to respond to the Employer's attempts to confirm that he was resigning from his position collectively show the Complainant formed the intent to quit his employment. The use of the words "last cheque" in the text message does not indicate on their own that the Complainant intended to quit, however, by requesting "paperwork" along with the last cheque it indicates that he was expecting more than just unpaid wages from the previous pay period.
>
> The second part of the test is to show that objectively, the employee must carry out an act inconsistent with his continued employment. I find that by leaving the worksite on March 16, 2020 without working, failing to respond to the text message from [the Employer's manager] on the same day, not attending work on March 17, 2020, and failing to respond to the letter of March 18, 2020, the Complainant carried out acts inconsistent with his continued employment.

**THE APPEAL DECISION**

28. The Applicant appealed the Determination on the grounds that the Adjudicating Delegate erred in law and failed to observe the principles of natural justice.

29. The Member concluded that the nub of the appeal did not concern a failure of natural justice. Instead, the Applicant's challenge focused more directly on the evidence the Adjudicating Delegate relied upon to determine that the Applicant had resigned or otherwise abandoned his employment, and the weight to be attributed to the various aspects of the evidence generally. The Member decided, properly in my view, that the Applicant's concerns should be characterized more accurately as raising an allegation that the Adjudicating Delegate erred in law.

30. The Applicant relied heavily on a Review Decision of WorkSafeBC dated June 26, 2020 (the "Review Decision"), prepared in relation to his claim for compensation benefits following his workplace injury. The Applicant argued that several conclusions drawn by the Review Officer contradicted statements made by Employer in the proceedings before the Director, and the Review Decision should, in consequence, have been accorded significant weight before the Determination was issued. Instead, the Applicant observes, the Report made no direct reference to it, and neither did the Adjudicating Delegate's Reasons.

31. As he had done during the investigation of his Complaint preceding the issuance of the Determination, the Applicant alleged the Employer committed "insurance fraud" when it disputed the Applicant's entitlement to compensation benefits pursuant to the *Workers Compensation Act*. The Applicant also argued once more that, after he became injured, the Employer bullied and harassed him to dissuade him from making, and then continuing, a claim for compensation benefits through WorkSafeBC, and to convince him he should accept the Employer's offer of a return to work with light duties, as a form of reasonable alternative employment. When the Applicant declined to accede to the Employer's wishes,

the Applicant formed the belief that the Employer intended to dismiss him which, he asserted, the Employer's manager did do during the meeting in the Employer's office on March 16, 2020.

32. In the Appeal Decision, the Member noted that the Review Decision formed part of the record before the Adjudicating Delegate when the Determination was being made. The Member noted further the Adjudicating Delegate's comment in the Reasons that all the evidence provided by the parties had been reviewed.

33. The Member rejected the Applicant's submission that it was an error of law for the Adjudicating Delegate to fail to attribute more significant weight to the conclusions drawn in the Review Decision. The Member's rationale appears in the Appeal Decision at paragraph 20:

> While the Review Decision does state, as the appellant asserts, that he may have had a justifiable excuse for not accepting his employer's offer to continue working with "light duties" after his March 3rd incident, this Review Decision is not, in my view, relevant to the *ESA* issue that was before the delegate. First, the employer never claimed that it was relieved from having to pay the appellant CLS because the appellant was "offered and has refused reasonable alternative employment by the employer" (section 65(1)(f) of the *ESA*). Second, the review officer had no jurisdiction regarding and, in any event expressly did not even purport to address, whether the appellant voluntarily quit his employment. In short, although this Review Decision was before the delegate, it had no probative value whatsoever in terms of the only issue that was properly before her, namely whether the appellant "quit" or was dismissed without just cause.

34. Regarding the claim of "insurance fraud", the Member stated that the Tribunal had no jurisdiction to determine it, and there was no cogent evidence to support it.

35. As for the claim that the Employer had bullied and harassed the Applicant, the Member concluded that the evidence in the record was insufficient to establish it. The Member stated, too, that such an allegation was better advanced in another forum, as the Tribunal was again without jurisdiction to decide it.

**36.** On the central issue animating the Complaint – whether the Applicant had "quit", or whether he had been dismissed – the Member affirmed that the Adjudicating Delegate had identified the relevant legal principles and had committed no palpable and overriding error in deciding that the Applicant had resigned, with the result that no compensation for length of service was payable to him.

## ISSUES

37. Should the Appeal Decision be reconsidered?

38. If so, should the Appeal Decision be confirmed, varied, or cancelled, or should the matter be referred back to the original panel of the Tribunal or to another panel?

## ARGUMENT

39. The Applicant claims that the description of certain of the facts appearing in the Report, the Reasons, and the Appeal Decision are incorrect, which taints the validity of the Determination and the Appeal Decision generally. Specifically, the Applicant refers to the following:

- The Reasons state that when the Applicant departed the meeting with the Employer's managers on March 16, 2020, he "went to his personal truck" and retrieved the paperwork the Employer had been requesting. The Applicant says he does not have a personal truck, and so this factual statement was invented by the Adjudicating Delegate. The Applicant argues that such an error leads to a concern that other significant factual aspects of the Reasons are also wrong.
- The Appeal Decision stated that the letter from the Employer to the Applicant dated March 18, 2020, indicated that his final pay would be processed "soon". The Applicant says this is factually untrue, and the letter does not say this. Instead, the letter included a paycheque for a previous period.
- The Appeal Decision characterized the Applicant's March 16, 2020, text message to the Employer as a request for his "final" paycheque, when it was his "last" paycheque that the Applicant was seeking, meaning a paycheque for previous work the Applicant had performed, but which he had been unable to retrieve because he was on medical leave.
- The Appeal Decision stated that the Review Decision was "prepared in relation to [the Applicant's] WCB benefits." The Applicant says this is factually untrue. He says the Review Decision had nothing to do with his WorkSafeBC file, because it was generated at the request of the Employer to challenge the decision of WorkSafeBC allowing the Applicant's claim for compensation benefits. The Applicant contends the Employer lied when it requested the intervention of the Review Division of the Workers Compensation Board because it alleged, initially, that the Applicant's injury was fabricated, but then retracted the accusation later when other evidence contradicted its claim. The Applicant argues that the Employer's conduct regarding his WorkSafeBC claim should have carried significant weight for the purposes of his *ESA* Complaint.
- The Applicant challenges the statement in the Appeal Decision that the Report "summarized the evidence that the parties had submitted." The Applicant says the Report only summarized the evidence the Investigating Delegate "allowed" to be submitted. The Applicant says, too, that the entire process employed by the Branch is "an insult to fairness and justice" if the person or panel who decides a complaint "does not hear and see all of the evidence".
- The Applicant submits that the evidence he sought to tender regarding his allegation that he was bullied and harassed by the Employer following his workplace injury was "cleansed" from the Report. The Applicant also takes issue with the Member's declining to place greater emphasis on that evidence in the appeal.
- The Applicant refutes the Investigating Delegate's statement in the Report that the Applicant "believed" he was being fired. The Applicant denies he ever said this. The Applicant states that this is evidence the Investigating Delegate "had decided who she thought should win this and wrote her report to attain that goal."

40. Apart from these specific concerns, the principal argument advanced by the Applicant repeats the substance of the position he has asserted since he filed his Complaint with the Branch. The Applicant submits that he was entitled to depart from the Employer's office following the abortive March 16, 2020,

meeting and, thereafter, he was not obliged to report for work, or to respond to any of the communications addressed to him from the Employer, because he had been fired. The Applicant reaffirms that he was dismissed because he would not accede to the Employer's demand that he lie to his physician about his having been injured while at work, so as to avoid the necessity for a claim to be forwarded to WorkSafeBC. The Applicant says that when his premise that the Employer fires any employee who declines to participate in what the Applicant describes as "insurance fraud" is accepted, the Applicant's assertion that he was dismissed on March 16, 2020, should be confirmed. The Applicant submits further, as he did from the outset of the investigation, that the communications from the Employer generated after the March 16, 2020, meeting, which focused on the assertion that the Applicant had resigned, should be characterized as the Employer "playing dumb" to minimize its liability for his dismissal.

**ANALYSIS**

41. The power of the Tribunal to reconsider one of its decisions arises pursuant to section 116 of the *ESA*, the relevant portion of which reads as follows:

> 116 (1) On application under subsection (2) or on its own motion, the tribunal may
>
> (a) reconsider any order or decision of the tribunal, and
>
> (b) confirm, vary or cancel the order or decision or refer the matter back to the original panel or another panel.

42. As the Tribunal has stated repeatedly, the reconsideration power is discretionary, and must be exercised with restraint. Reconsideration is not an automatic right bestowed on a party who disagrees with an order or decision of the Tribunal in an appeal.

43. The attitude of the Tribunal towards applications under section 116 is derived in part from section 2 of the *ESA*, which identifies as purposes of the legislation the promotion of fair treatment of employees and employers, and the provision of fair and efficient procedures for resolving disputes over the application and interpretation of the statute. It is also derived from a desire to preserve the integrity of the appeal process mandated in section 112.

44. With these principles in mind, the Tribunal has adopted a two-stage analysis when considering applications for reconsideration (see *Re Milan Holdings*, BC EST #D313/98). In the first stage, the Tribunal considers an applicant's submissions, the record that was before the Tribunal in the appeal proceedings, and the decision the applicant wishes to have reconsidered. The Tribunal then asks whether the matters raised in the application warrant a reconsideration of the decision at all. A "yes" answer means that the applicant has raised questions of fact, law, principle, or procedure flowing from the appeal decision which are so important that they warrant reconsideration.

45. In general, the Tribunal will be disinclined to reconsider if the primary focus of the application is to have the reconsideration panel re-weigh arguments that failed in the appeal. It has been said that reconsideration is not an opportunity to get a "second opinion" when a party simply does not agree with an appeal decision of the Tribunal (see *Re Middleton*, BC EST #RD126/06).

46. If the applicant satisfies the requirements in the first stage, the Tribunal will go on to the second stage of the inquiry, which focuses on the merits of the Tribunal's decision in the appeal. When considering that decision at this second stage, the standard applied is one of correctness.

47. In my view, the Application fails to overcome the threshold test for a reconsideration pursuant to section 116. I am not persuaded that the Applicant has raised questions of fact, law, principle, or procedure emerging from the Appeal Decision which are so important that a reconsideration of it is warranted.

48. The submissions the Applicant has offered are largely, if not entirely, a repetition of the arguments which failed to persuade both the Adjudicating Delegate and the Member on appeal. As I have stated, such an approach is insufficient to justify the Tribunal to invoke its discretionary reconsideration power.

49. Even if the Applicant is correct to say that the Investigating Delegate erred in stating the Applicant retrieved the paperwork the Employer had requested from his "personal truck" following his meeting with the Employer's managers on March 16, 2020, the error had no bearing on the eventual disposition of his Complaint. The key finding, to which all parties agreed, was that the Applicant retrieved the paperwork and immediately returned it to the Employer's office. Where the Applicant retrieved the paperwork from was immaterial.

50. For similar reasons, I am not persuaded there is any significant import to be derived from the fact that the Appeal Decision employed words to describe what the Employer's March 18, 2020, letter to the Applicant stated that are different from the words that appear in the letter. The Applicant says the Appeal Decision states the letter reads that his final paycheque would be processed "soon" (In fact, the Member used the word "shortly", but I digress). The Applicant contends that the letter does not say that. Technically, that is correct. The letter states the Employer would "process your final pay in accordance with the following terms…." The letter then refers to any outstanding wages owed to the Applicant up to and including March 16, 2020, and his Record of Employment. In the circumstances, it matters not that the Member added the word "shortly", because the Employer did deliver a paycheque and the ROE to the Applicant.

51. I am also of the view that the Member's reference to the Applicant's request for a "final" paycheque in his text message to the Employer following the March 16, 2020, meeting, when the message stated the request was for a "last" cheque is of no moment. As the Reasons stated, and the Appeal Decision confirmed, it was not the request for a "last cheque" in the message that indicated an intention on the part of the Applicant to resign, at least on its own. Instead, it was the accompanying request for "paperwork" which belied, objectively, the Applicant's claim his text was meant to communicate merely a desire for payment of unpaid wages from a previous pay period. The fact that the Applicant may not have intended his text message to be interpreted in this way is also immaterial.

52. The Applicant contends, in essence, that the contradictory statements made by the Employer in response to his claim for compensation benefits processed by WorkSafeBC, and his evidence of the Employer's alleged "bullying and harassment" tactics should have been accorded greater weight during the investigation and in the proceedings in the appeal. Instead, he argues, this evidence was effectively "cleansed" throughout, resulting in decisions that were unfair and unjust.

53. I disagree. It is important to recall that matters of fact are for delegates of the Director to decide. This includes decisions relating to which evidence is deemed to be relevant for the purposes of a complaint, as well as the weight to be attributed to the various aspects of the evidence that is admitted.

54. In the Reasons, the Adjudicating Delegate acknowledged that the Report invited the parties to review the documents referred to in it, and to advise if the Report contained any errors or required clarification. The Reasons also acknowledged that both parties provided further submissions in writing thereafter. The Reasons then stated it was unnecessary to recount all the evidence in detail, but that the Adjudicating Delegate had reviewed it, and would refer to it as necessary to make the required findings. The record shows that the Applicant stated repeatedly during the investigation that he had been bullied and harassed by the Employer. The Applicant also delivered the Review Decision to the Investigating Delegate, together with submissions relating to the credibility of the Employer that are the same as those presented to the Member in the appeal, and also in the Application. On these facts, it is difficult to conclude that the Adjudicating Delegate was unaware of the Applicant's posture regarding this evidence, that the Adjudicating Delegate did not consider it, or simply chose to ignore it.

55. The fact that a delegate does not refer to evidence that a party believe is relevant does not mean that the delegate failed to consider it, and thereby conducted a process that was procedurally unfair. It must be assumed, absent good cause, that a delegate has considered and weighed all the evidence and has found the facts necessary to support the conclusions reached (see *Re Westminster Lift Truck & Services Ltd.*, BC EST #D166/04; *Re Gutierrez*, BC EST #D108/05; *Re Zhao and Zhang*, BC EST #D004/13).

56. Regarding the evidence of bullying and harassment, the record shows that the Employer's manager denied the allegations, and he argued that his repeated efforts to obtain further information concerning the Applicant's injury, and completed return-to-work documentation, was consistent with its effort to maintain a safe workplace and comply with its obligations to WorkSafeBC.

57. As for the evidence relating to the proceedings involving WorkSafeBC, there exists a plausible explanation why the Investigating Delegate did not refer to it in the Report, and the Adjudicating Delegate did not acknowledge it in the Reasons for the Determination. The Appeal Decision provides it. There, the Member noted the observation made in the Review Decision that the issue whether the Applicant had been fired or had resigned was beyond the scope of the review. Quite simply, the WorkSafeBC proceedings were concerned with entirely different matters and were, therefore, irrelevant to the issue raised under the *ESA*.

58. The Applicant's statement in the Application that he never said to the Investigating Delegate he "believed" he was being fired is perplexing. I say this because the Applicant advised the Investigating Delegate that he thought he was going to be fired after he became injured. He also stated that when he returned to work on the morning of March 16, 2020, and he saw that his truck was locked, he knew then that he was about to be fired when he entered the office. Once the meeting with the Employer's managers ended that morning, there can be no question the Applicant understood he had been fired. Given this evidence from the Applicant himself, it is difficult to discern the point the Applicant is intending to make when he claims he never stated he thought he was going to be fired. It is also wildly speculative, and entirely unhelpful, for the Applicant to assert that the Investigating Delegate decided who she thought should win and wrote the Report to attain that goal.

59. As I have stated, the principal issue before the Adjudicating Delegate was whether the Applicant had resigned, or whether he was dismissed. I agree with the Member's comments in the Appeal Decision that the Adjudicating Delegate identified the correct legal test for deciding this issue. I also agree with the Member that the Adjudicating Delegate's Reasons do not disclose any palpable and overriding error in its analysis leading to the conclusion that the Applicant's departing his place of work without permission on March 16, 2020, his forwarding the text message requesting his last cheque and paperwork, and his declining to respond to the Employer's communications suggesting he had resigned must mean that it was the Applicant who acted in a manner that would convince a reasonable person he had terminated the employment relationship, and that he had not been dismissed.

60. Throughout, the Applicant has offered a different version of events, as outlined earlier. He claims that he was fired, and that he did not resign. The Adjudicating Delegate could have accepted the Applicant's analysis. The Reasons demonstrate that the Adjudicating Delegate declined to do so, and that the primary focus for the resolution of the Complaint must be directed to the events that occurred during and after the March 16, 2020, meeting.

61. I confess I am troubled that the Adjudicating Delegate's Reasons do not address, specifically, the Applicant's evidence that the Employer's manager confirmed he was fired at the March 16, 2020, meeting. It would have been helpful if the Adjudicating Delegate had done so. That said, the Reasons indicate the Adjudicating Delegate was aware of the dispute as to what was said at the meeting, and the tenor of the Reasons, generally, makes it clear the Adjudicating Delegate determined the evidence the Applicant presented in support of his claim that he was fired was insufficient to establish it. Both the Employer's manager and its assistant manager denied that the Applicant was told he was dismissed. For his part, the Member stated in the Appeal Decision that the Applicant produced no paperwork corroborating the alleged verbal communication that he was fired.

62. Inadequate reasons may constitute reviewable error if the deficiency of the reasons prevents a party from assessing a determination, understanding the basis behind a delegate's decision, and deciding whether there are any available grounds of appeal (see *Re Regent Christian Academy (c.o.b. Regent Christian Online Academy)*, BC EST #D011/14). In my view, this is a case where none of these factors are at play. It is obvious from the Reasons that the Adjudicating Delegate declined to accept the Applicant's interpretation of the relevant events, and his conclusion that he was fired. The Adjudicating Delegate's Reasons do not lead to any discernible misunderstanding on this point, and there is nothing stated in them which would act as an impediment to the Applicant's assessing whether to appeal.

## ORDER

63. The Application is dismissed. Pursuant to section 116 of the *ESA*, the Appeal Decision is confirmed.

**Robert E. Groves**
**Member**
**Employment Standards Tribunal**