

An appeal

- by -

Robert Hart  
("Hart")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act* R.S.B.C. 1996, C.113

**ADJUDICATOR:** Cindy J. Lombard

**FILE No.:** 2002/507

**DATE OF DECISION:** January 6, 2003

## DECISION

### OVERVIEW, FACTS AND ANALYSIS

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Keywest Motors (2002) Ltd. (Keywest Motors”) and by its employee, Robert Hart (“Hart”) from a Determination of the Director of Employment Standards dated April 15, 2002 and amended June 3, 2002 (the “Determination”). There was a hearing of that appeal on August 14, 2002 and a decision rendered by the Employment Standards Tribunal on September 16, 2002 wherein it was determined that:

1. Hart was employed by Keywest Motors between December 3, 2001 and February 12, 2002;
2. Hart’s position was mechanic and his duties included the responsibility of getting the Keywest Motors premises ready for inspection by Yamaha and the opening of February 22, 2002 (which never occurred);
3. Hart’s rate of pay was \$18.00 per hour;
4. Hart worked the regular and overtime hours detailed on exhibits #1, #2, and #3

and referred the matter back to the Director to calculate regular wages and overtime due to Hart in accordance with those findings.

On October 3, 2002 the Director of Employment Standards (the ‘Director’) issued a Determination calculating that Hart is owed wages, vacation pay and section 88 interest as follows:

Wages	\$13,887.00
Plus: 4% vacation pay	\$555.48
Subtotal	\$14,442.48
Plus: Section 88 interest	<u>\$338.90</u>
Total Amount owing	\$14,781.38

Hart agreed with the calculation. Keywest Motors, who did not appear at the original hearing made no submission with respect to the calculation.

We confirm that the calculations of the Director are correct.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination be varied and issued in the amount of \$14,781.38.

---

**Cindy J. Lombard**  
**Adjudicator**  
**Employment Standards Tribunal**