

**EMPLOYMENT STANDARDS TRIBUNAL**

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

- by -

Seehra & Sons Contractors Ltd.  
("Seehra or farm labour contractor")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** Paul E. Love

**FILE No:** 1999/546

**DATE OF DECISION:** January 12, 2000

## **DECISION**

### **OVERVIEW**

This is an appeal by Seehra & Sons Contractors Ltd. of a Determination dated August 13, 1999. The Agricultural Compliance Team attended at a farm in Surrey, and determined, from interviewing the workers, that there was no log book on site setting out the names and numbers of the workers. The farm labour contractor indicated in submissions that he did not leave the log book on site, because he did not wish to leave the log book with strangers, while he attended at another location to repair his van.

### **ISSUES TO BE DECIDED**

Did the Delegate err in determining that the farm labour contractor failed to have on site a log book setting out the names of employees working on August 11<sup>th</sup>, 1999?

### **FACTS**

On August 11, 1999 the Agricultural Compliance Team of the Director attended for a site visit at the farm of Surjit Gill, located in Surrey, British Columbia. The farm labour contractor had transported employees to the farm to harvest blueberries. The Delegate asked questions of the employees on site to determine the location of the daily log book, and it was not available for inspection.

The Delegate determined that the farm labour contractor violated s. 6(4) of the *Employment Standards Regulation*, and assessed a zero dollar penalty.

The farm labour contractor appealed and submitted that the principal of the company, Harbinder S. Seehra was never asked to produce the log book, and that the principal was not at the site because he was attending to have his van repaired. He did not wish to leave the log book with any stranger, and informed the farmer that he was going to a mechanic to have his van repaired. He says that the Director's delegate should have called ahead of time to ensure that he was present at the time of the investigation.

### **ANALYSIS**

Section 6(4) of the *Regulation* indicates as follows:

A farm labour contractor must keep at the work site and make available for inspection to the director a daily log that includes:

- a) the name of the employer and work site location to which workers are supplied
- b) the names of the workers who work on that site on that day

The Delegate points out that in similar circumstances the farm labour contractor has left the daily log with the farm supervisor or at the weigh in scale.

In my view it is unnecessary for the Director's delegate to advise a farm labour contractor, in advance of an inspection, that the Delegate intends to inspect a work site to determine whether the farm labour contractor is in compliance with the *Act* and the *Regulation*.

In my view, it is not necessary, where the principal of the company is not present, for the Director to prove that it made a demand on the principal for production of the log book, when the Delegate has proven that he requested the log book from employees. It is clear from the investigation, that the log book was not located on site, and this is admitted in the submission of the farm labour contractor.

The *Act* apparently does not require the farm labour contractor to remain in attendance at the work site during the entire time period that the employees are on site. A requirement that the Director prove that it made a demand on the company, where the company does not maintain a representative at the worksite, would render this regulation of the *Act* enforceable only as against farm labour contractors who were physically present at the time of the inspection by the Director.

**ORDER**

Pursuant to section 115 of the *Act*, I confirm the Determination of the Delegate made August 13, 1999.

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**Paul E. Love**  
**Adjudicator**  
**Employment Standards Tribunal**