

**EMPLOYMENT STANDARDS TRIBUNAL**

In the matter of an appeal pursuant to Section 112 of the

*Employment Standards Act* S.B.C. 1995, C.38

- by -

Elizabeth Anne Campbell  
("Campbell")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Geoffrey Crampton

**FILE NO.:** 96/068

**DATE OF DECISION:** February 26, 1996

**DECISION**

**OVERVIEW**

This is an appeal by Elizabeth Campbell (“Campbell”) pursuant to section 112 of the *Employment Standards Act* (“the *Act*”) against Determination # CDET 00576 issued by a delegate of the Director (Director’s delegate) on December 21, 1995. Campbell alleges “wrongful dismissal” by her former employer, Fanny’s Fabrics (B.C.) Ltd. (Fanny’s Fabrics”).

In a letter dated January 26, 1996 the Tribunal provided Campbell and Fanny’s Fabrics with copies of information provided by the Director and invited written submissions by February 16, 1996. No submissions were received.

I have completed my review of the information provided by the Director.

**FACTS**

Campbell was employed as an accounting clerk by Fanny’s Fabrics from July 12, 1995 to July 18, 1995. She filed a complaint with the Employment Standards Branch on August 2, 1995 alleging wrongful dismissal by her former employer.

Determination # CDET 000576 found that Fanny’s Fabrics had not contravened the *Act*.

**ISSUE TO BE DECIDED**

The issue to be decided in this appeal is whether Fanny’s Fabrics has any liability to pay compensation to Campbell under Section 63 of the *Act*.

**ARGUMENTS**

The Reason Schedule attached to the Determination offers the following reasons to support the Determination:

- Campbell was employed for five days;
- Campbell’s decision to choose employment with Fanny’s Fabrics rather than some other employer does not entitle her to severance pay; and
- Fanny’s Fabrics did not contravene the *Act*, thus no compensation is owed under section 63 of the *Act*.

In her appeal dated January 10, 1996 Campbell argues that a three-month training period was one condition of her employment with Fanny's Fabrics. She also argues that her employment was terminated after five days without any explanation.

## **ANALYSIS**

Section 63(1) of the *Act* states:

**After 3 consecutive months of employment**, the employer becomes liable to pay an employee an amount equal to one week's wages as compensation for length of service. (emphasis added)

In this case, there is no dispute that Campbell was employed for five days only. Thus, it is clear that she does not meet the requirement set out in Section 63 (3 months of consecutive employment) which would entitle her to claim compensation for "wrongful dismissal."

The notion of a probationary period is implicit in Section 63(1) when it requires three months of consecutive employment before an employer is liable to pay compensation based on length of service. It is generally recognized that the purpose of a probationary period is to give an employer an opportunity to assess a new employee's suitability for continued employment. In this case, Fanny's Fabrics concluded after employing Campbell for five days that she was unsuitable for continued employment.

For the above reasons, I conclude that Fanny's Fabrics did not contravene the *Act* in terminating Campbell's employment.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that Determination # CDET 00576 be confirmed.

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**Geoffrey Crampton**  
**Chair**  
**Employment Standards Tribunal**

February 26, 1996

**Date**

GC:nc