

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 -

Natasha Vasiluk
("Vasiluk")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 96/680

DATE OF DECISION: January 13, 1997

DECISION

OVERVIEW

This is an appeal by Natasha Vasiluk (“Vasiluk”) pursuant to Section 112 of the *Employment Standards Act* (the “Act”) against Determination CDET 004477 issued by a delegate of the Director of Employment Standards on October 28, 1996. The delegate determined that Vasiluk’s former employer, Danzas (Canada) Ltd. (“Danzas”), did not owe overtime wages, regular wages and travel expenses to Vasiluk. Vasiluk has appealed the Determination with respect to the issue of travel expenses. She claims she is owed \$54.56 in travel expenses.

FACTS

In his Determination, the delegate concluded that Vasiluk was not owed overtime and regular wages by Danzas. He further concluded that Danzas did not owe travel expenses to Vasiluk as travel expenses (in this case, mileage/gas expenses) are not “wages” under the *Act* and therefore the Branch has no jurisdiction.

Vasiluk appealed the delegate’s conclusion regarding travel expenses. In her appeal Vasiluk states the following:

Under the issue of travel expense the investigation wasn’t correct. It’s not “wages” - I understand, But still I am the person who’s usually made a direct bank deposit, therefore; legal for travel allowance.

Vasiluk provided copies of various letters exchanged between her and other personnel at Danzas regarding her claim for mileage when she had to make bank deposits. Her claim amounts to \$54.56 for the period May 15 to July 8, 1996.

Danzas was invited to provide submissions on this appeal, but none were received by the Tribunal.

ANALYSIS

Under Section 1 of the *Act*, wages is defined as follows:

“wages” includes

- (a) salaries, commissions or money, paid or payable by an employer to an employee for work,*
- (b) money that is paid or payable by an employer as an incentive and relates to hours of work, production or efficiency,*

- (c) money, including the amount of any liability under section 63, required to be paid by an employer to an employee under this Act ,*
- (d) money required to be paid in accordance with a determination or an order of the tribunal, and*
- (e) in Parts 10 and 11, money required under a contract of employment to be paid, for an employee's benefit, to a fund, insurer or other person,*

but does not include

- (f) gratuities,*
- (g) money that is paid at the discretion of the employer and is not related to hours of work, production or efficiency,*
- (h) allowances or expenses, and*
- (I) penalties.*

The *Act* clearly states that wages do not include allowances or expenses. Therefore, I agree with the delegate that travel expenses are not wages and Vasiluk's claim is outside the jurisdiction of the *Act* .

Time that Vasiluk spend on travel during her working day at the employer's direction is work for which wages must be paid. Accordingly, the time she spent making the bank deposits must be paid. However, any expenses she may have incurred by making these deposits are not wages under the *Act* and therefore the delegate has no jurisdiction to investigate or enforce payment of her claim.

ORDER

Pursuant to Section 115 of the *Act* , I order that Determination CDET 004477 be confirmed.

Norma Edelman
Registrar
Employment Standards Tribunal