

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 -

Tami Howard
("Howard")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 96/097

DATE OF DECISION: March 19, 1996

DECISION

This is an appeal by Tami Howard (“Howard”) pursuant to Section 112 of the *Employment Standards Act* (“the Act”) against Determination No. CDET 000655 issued by a Delegate of the Director of Employment Standards on January 9, 1996.

In this appeal, Howard claims the Delegate has incorrectly calculated the compensation she is owed by JRJ Foods Ltd. (“JRJ”). In the Determination, the Delegate indicates Howard is owed 2 weeks compensation for length of service calculated at \$9.00 per hour x 7 hours per week (average hours of last 8 weeks’ earnings) x 2 weeks = \$126.00 plus 4 % vacation pay = \$131.04 .

Howard claims she worked an average of 8 hours per week.

In a report to the Tribunal dated February 5, 1996, the Delegate writes that she is in agreement that Howard worked an average of 8 hours per week. Accordingly, the calculation should be: \$9.00 per hour x 8 hours per week x 2 weeks = \$144.00 plus 4 % vacation pay = \$149.76. The Delegate further states that JRJ is in bankruptcy and the Trustee has advised her there will not be any funds available to pay employees. Furthermore, there is no Director of Officer liability for compensation for length of service.

JRJ was invited to respond to Howard’s appeal and the Delegate’s report of February 5, 1996. No reply was received by the Tribunal.

Given the above, I conclude that Howard is owed an additional \$18.72.

Pursuant to Section 115 of the Act, I order that Determination #CDET 0000655 be varied to \$42,376.30.

Norma Edelman
Registrar
Employment Standards Tribunal

March 19, 1996
Date

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