

An appeal

- by -

Hemlock Ventures Inc. operating as Little Caesar's Pizza
("Little Caesars")

- 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: M. Gwendolynne Taylor

FILE No.: 2001/802

DATE OF DECISION: January 22, 2002

DECISION

OVERVIEW

This is an appeal pursuant to Section 112 of the Employment Standards Act (the "*Act*") brought by Hemlock Ventures Inc, operating as Little Caesars Pizza ("Little Caesars") of a Determination issued on October 26, 2001 by the Director of Employment Standards (the "Director"). The Director found that Little Caesars owed Lisa Geiger ("Geiger"), a former employee, \$445.77 as compensation for the cost of cleaning her uniform, including accrued vacation pay and interest.

Little Caesars appealed on the grounds that the Director erred in fact and requested that the Determination be varied to find that Little Caesars owed Geiger \$7.60.

ISSUE

Did the Director err in calculating the amount of compensation for cleaning the uniform?

FACTS AND ARGUMENTS

Geiger worked for Little Caesars from June 12, 1998 until April 27, 2000, as a pizza maker at minimum wage. Little Caesars required employees to wear uniforms. Little Caesars did not clean the uniforms.

Section 25 of the *Act* provides that if an employer requires employees to wear special clothing the employer must provide and clean the clothing, without charge to the employee. The Director determined that Geiger was entitled to compensation for cleaning her own uniform, based on one laundering per shift. This included a determination of the approximate cost of a load of a laundry.

There are two findings in dispute:

- that Little Caesars provided Geiger with only one uniform, as opposed to three as contended by Little Caesars; and
- the method of calculating appropriate compensation, which included calculating the number of shifts Geiger worked.

Concerning the number of uniforms, Little Caesars had provided the Director with the name of a witness but had not provided her address or telephone number. In the appeal, the Director referred to this person but did not provide a statement to corroborate the testimony. It is possible that Little Caesars anticipated an oral hearing. However, the Tribunal's correspondence dated

December 21, 2001 indicates this appeal will be decided based on the written submissions. No further submissions or information were provided.

Concerning the compensation calculation, Little Caesars had argued that if Geiger normally washed the uniform with other items, only a portion of the load should be attributed to the uniform. The Director found the reverse - that if Geiger added other items to the load, that did not alter the cost of the load.

In the appeal, Little Caesars argued that the Director's determination has the effect of requiring Little Caesars to pay for laundering all of Geiger's clothing during her employment. Also, both sets of calculations are based on large loads whereas the washing of a single uniform would require only a small load.

Little Caesars and Geiger disagreed on the number of shifts she worked. The Director's delegate asked Little Caesars to provide employment records but they were not provided because of the cost involved in retrieving the information from storage. The Director calculated the number of shifts based on \$7.15 per hour for a portion of the employment, and \$7.40 per hour for a portion. Little Caesars' calculation is based on \$7.40 per hour throughout the employment.

FINDINGS

Little Caesars breached section 25 of the *Act*. The issue is how much compensation Geiger is entitled to for cleaning her own uniform throughout her employment.

The onus is on Little Caesars to demonstrate that the Director's Determination is incorrect. Little Caesars has not provided any additional information or evidence to substantiate the claim that the Director's findings are in error. Despite the comments and calculations in the Determination, in this appeal Little Caesars did not provide evidence from the potential witness, nor address the discrepancy in the calculation of the number of shifts and the wage paid during the employment.

Little Caesars strongest argument seems to be that only a portion of a load of a laundry should be ordered as compensation. I accept the Director's rationale. It is not an easy task to calculate the cost of cleaning the uniform. In my view, the Director's delegate made appropriate calculations.

ORDER

I dismiss the appeal and confirm the Determination dated October 26, 2001.

M. Gwendolynne Taylor
Adjudicator
Employment Standards Tribunal