

An appeal

- by -

J.P. Metal Masters 2000 Inc.
("J.P.")

- 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 (as amended)

TRIBUNAL MEMBER: David B. Stevenson

FILE No.: 2005A/68

DATE OF DECISION: June 21, 2005

DECISION

SUBMISSIONS

Cal Mitten	on behalf of the Director
Dennis Foucher	on his own behalf

OVERVIEW

1. This decision completes an appeal filed by J.P. Metal Masters 2000 Inc. (“J.P.”) of a Determination that was issued on September 27, 2004 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that J.P. had contravened Part 4, Section 40, Part 5, Section 46, Part 7, Section 58 and Part 8, Section 63 of the *Act* in respect of the employment of Dennis Foucher (“Foucher”) and ordered J.P. to pay Foucher an amount of \$3,829.41.
2. The Director also imposed an administrative penalty on J.P. under Section 29(1) of the *Employment Standards Regulation* (the “*Regulations*”) in the amount of \$1500.00.
3. In BC EST #D057/05 (the “original decision”), I found the Director had not erred in finding Foucher was not a manager for the purposes of the *Act*, but may have miscalculated the amount of wages owing. The wage calculation was referred back.
4. The Director has reviewed the matter and has issued a supplement to the Determination, dated April 25, 2005, indicating the Determination should be varied to show that Foucher is owed an amount of \$3,370.83, for regular and overtime wages, length of service compensation and annual vacation pay, and \$43.82 interest on that amount. The Tribunal has requested submissions from the parties on the amount shown in the supplement.
5. J.P. had filed no response. Foucher has filed a response. He simply asks that the matter be expedited and agrees with the calculation done by the Director.
6. There being no objection to the wage entitlement calculation made by the Director and no indication that the calculation is wrong, it is appropriate to vary the Determination as indicated by the Director.

ORDER

7. Pursuant to Section 115 of the *Act*, I order the Determination dated September 27, 2004 be varied to show an amount owing of \$3,414.65 together with whatever additional interest that may have accrued, pursuant to Section 88 of the *Act*.

David B. Stevenson
Member
Employment Standards Tribunal