

An appeal

- by -

CHT Aerospace Inc.
("CHT")

- 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: Norma Edelman

FILE No.: 2001/856

DATE OF DECISION: March 6, 2002

DECISION

OVERVIEW

This is an appeal pursuant to Section 112 of the Employment Standards Act (the "Act") by CHT Aerospace Inc. ("CHT") from a Determination issued by a delegate of the Director of Employment Standards (the "delegate") on October 5, 2001. The delegate found that CHT owed \$22,581.37 in wages to several former employees. CHT appealed the Determination claiming that one of employees, Michael Hurtubise ("Hurtubise") was not owed wages for the period September 17 -21 as calculated by the delegate.

ISSUE TO THE DECIDED

Is Hurtubise entitled to wages for the period September 17, 2001 to September 21, 2001?

FACTS AND ANALYSIS

CHT ceased operating on September 21, 2001. It was a petitioned into bankruptcy on October 10 2001.

The delegate determined that CHT owed \$22,581.37 to 8 former employees. With regard to Hurtubise, she found he was owed \$2005.87, including \$514.68 representing wages for the period September 17, 2001 to September 21, 2001.

The Trustee on behalf of CHT appealed the Determination on the ground that Hurtubise had been paid wages for the period September 17 to 21. The Trustee enclosed a copy of the cheque, which is endorsed by Hurtubise. The cheque was cashed at a Money Mart. Subsequently, Money Mart was advised the cheque was dishonoured (N.S.F.). Money Mart y way of a letter dated October 2, 2001 has asked CHT to reimburse it for the full amount plus a returned cheque charge. The Trustee enclosed a copy of ey Mart's letter.

Hurtubise and the delegate were invited to reply to the appeal. No reply was received from Hurtubise. The delegate forwarded a submission to the Tribunal stating " it is not the intent of the Director to require payment of more wages than those to which an employee is entitled..."

The delegate's submission was forwarded to the other parties for their reply. The Tribunal did not receive any replies to this submission.

In an appeal, the burden is on the Appellant to show that a Determination should be varied or canceled. In this case, I am satisfied that CHT has met the burden to show the Determination should be varied.

The Trustee has provided evidence to support his claim that Hurtubise was paid for the period September 17 to 21. The delegate does not disagree with the Trustee. Although given an opportunity to do so, Hurtubise has not challenged the Trustee's claim. Accordingly, I can find no basis to reject CHT's claim that the Determination be varied to show Hurtubise is not owed wages for September 17 to 21.

ORDER

Pursuant to Section 115 of the Act, I order that the Determination dated October 5, 2001 be varied to show Hurtubise is owed a total of \$1491.19 plus any further interest calculated pursuant to Section 88 of the Act since the date of the Determination.

Norma Edelman
Adjudicator
Employment Standards Tribunal