

An appeal

- by -

Mainland Demo Contracting Ltd. and Mainland Group Contracting Ltd. and  
Mainland L. Contracting Ltd. and Mainland Labour Contracting Ltd. and Doon  
Development Ltd.

(“MDC and the associated companies”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

Pursuant to section 113 of the  
*Employment Standards Act* R.S.B.C. 1996, C. 113 (as amended)

**TRIBUNAL MEMBER:** David B. Stevenson

**FILE No.:** 2017A/16

**DATE OF DECISION:** September 13, 2017

## DECISION

### SUBMISSIONS

Kara L. Crawford

on behalf of the Director of Employment Standards

### OVERVIEW

1. On May 17, 2017, I issued a decision, BC EST # D055/17, on an appeal by Mainland Demo Contracting Ltd. and Mainland Group Contracting Ltd. and Mainland L. Contracting Ltd. and Mainland Labour Contracting Ltd. and Doon Development Ltd. (“MDC and the associated companies”) of a Determination issued by the Director of Employment Standards, through his delegate (the “Director”), in favour of Gurpal S. Sekhon (Mr. Sekhon”) for wages in the amount of \$18,231.38, representing unpaid overtime, statutory holiday pay, vacation pay, compensation for length of service and interest.
2. The bulk of the appeal was dismissed under section 114(1) of the *Act*. A question relating to the overtime calculation for a period January 2, 2015, to February 15, 2015, was referred to the parties for submissions. I received submissions from the Director and MDC and the associated companies. On June 28, 2017, I issued a decision on this question, BC EST # D070/17, finding the Director had included a period in calculating Mr. Sekhon’s overtime entitlement that fell outside the statutory recovery period. The matter was referred back to the Director to have the overtime entitlement recalculated based on this finding.
3. I have received a Report back from the Director recalculating Mr. Sekhon’s wage entitlement. Included in the recalculation was an adjustment to overtime wages and to annual vacation pay. The recalculations reduced the wages found payable to Mr. Sekhon by MDC and the associated companies to \$17,377.41.
4. A copy of the Report was provided to Mr. Sekhon and to counsel for MDC and the associated companies for any submission either wished to make. No submissions were received from either party within the time set by the Tribunal for submissions to be made. The Tribunal did, however, receive a letter from counsel for MDC and the associated companies on August 21, 2017 indicating counsel anticipated the Director would consider “all of the previous submissions” and, as such, no further submissions were made. The remark is odd since all of the submissions made by MDC and the associated companies relative to Mr. Sekhon’s wage entitlement ought to have been contained in the appeal and, as such, would have been addressed and dismissed in BC EST # D055/17 and the arguments made on the question referred back have resulted only in the overtime entitlement being recalculated and vacation pay being adjusted by the Director. Based on the result of these two decisions, I would not consider there was any other “submissions” the Director would need to consider.
5. In any event, I have reviewed the Report and find no basis to interfere with the Director’s recalculation of overtime wages or the adjustment to Mr. Sekhon’s annual vacation pay entitlement.
6. The appeal may now be finalized by the following order.

**ORDER**

7. Pursuant to section 115 of the *Act*, I order the Determination dated December 21, 2016, be varied to show the total amount owed to Mr. Sekhon by MDC and the associated companies, as set out in the Report, is \$17,377.41, together with any interest that has accrued under section 88 of the *Act*.

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**David B. Stevenson**  
**Member**  
**Employment Standards Tribunal**