

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 -

A-One Enterprises
("A-One")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Geoffrey Crampton

FILE NO.: 96/092

DATE OF DECISION: May 20, 1996

DECISION

OVERVIEW

This is an appeal by A-One Enterprises Ltd. (“A-One”), under Section 112 of the Employment Standards Act (the “Act”), against Determination CDET# 000677. The Determination was issued by a delegate of the Director of Employment Standards (“Director’s delegate”) on January 8, 1996.

A-One acknowledges that it has a “substantial unsatisfied payroll”, but disputes hourly wage rates, hours of work and other terms of employment for certain employees named in the Determination.

I have completed my review of the written submission made by A-One and the information provided by the Director’s delegate and have concluded that the Determination should be varied.

ISSUE TO BE DECIDED

The issue to be decided in this case is the amount of unpaid wages payable to certain employees named in the Determination.

FACTS

The Director’s delegate issued the Determination on January 8, 1996 showing the amount of \$168,870.58 as payable by A-One. The reasons for issuing the Determination were stated in the following terms:

The employees were not paid during their employment but were promised payment at the end of the project. Now that the project has ended there is a dispute over who owns the company. The Court has ordered all money be held pending a determination as to the ownership of the company.

Twenty-five employees were listed in the Determination, most of whom were tree planters paid a wage of \$12.00/hour. A schedule of hours worked by each employee and the corresponding wages owed to each employee was attached to the Determination.

Ravinder Basi submitted an appeal against the Determination on behalf of A-One in which he made the following statement:

A-One Enterprises Ltd. (“A-One”) is the employer in respect of which the Determination under appeal has been issued. The ownership and management of A-One is disputed, and is currently the subject of Court proceedings (Supreme Court of British Columbia, New Westminster Registry No.:S028625). I, Ravinder Basi, and Saravjit Manihani, each claim to be authorized to exercise the powers of the shareholders and directors of A-One, to the exclusion of the other. The Court has ordered that neither party may transact business on behalf of A-One, pending a trial or other disposition of the Court action.

Nevertheless, I have an interest in seeing that the claims against A-One, which are the subject matter of the attached Determination, are properly resolved, and I bring this Appeal in that capacity. The Determination was served upon me at the address referred to in section A of the Appeal form, which is the registered and records office of A-One Enterprises Ltd.

The appeal also contained the following statement:

I acknowledge on behalf of A-One that the company has a substantial unsatisfied payroll represented by the claims of these workers. However, in several instances the terms of employment and amount claimed to be owing are the subject of dispute. Particular grounds of Appeal include the following:

1. The Determination purports to allow for vacation pay in addition to wages. The terms of employment provide that the wages included an allowance for vacation pay.
2. The hourly rates of pay claimed by the workers have not been verified and exceed the rates agreed to be paid by A-One.
3. The number of hours claimed by several workers are excessive, inconsistent and have not been adequately verified.
4. The Determination does not make allowance for the deduction of a daily camping fee, which was a term of employment with each worker.
5. The Determination does not allow for withholding and remittance of income tax, WCB, CPP, UIC, or other appropriate statutory deductions which A-One is required to make.

The Appellant seeks determination or verification of the various issues in dispute with respect to the amount payable to each worker, and a variation of the Determination to reflect any appropriate adjustments.

Following receipt of A-One's appeal the Director's delegate submitted to the Tribunal that the Determination should be varied to show \$157,035.82 as the total amount of wages owing by A-One due to some minor corrections in the calculation of wages owing. The amount owed to each employee according to the Director's delegate is set out in Appendix "A" of this Decision.

The Registrar of the Tribunal wrote to A-One on May 8, 1996 requesting it to provide on or before May 23, 1996 "...a full submission on the grounds of your appeal." The Tribunal did not receive any response to that request.

ANALYSIS

The Director's delegate issued the Determination following his investigation of the complaints made by A-One's former employees. He prepared a detailed analysis of the amount of wages owing to each employee, as set out in the attachments to the Determination.

A-One's appeal contains some very general assertions or allegations about the accuracy of the calculations. However, the Tribunal did not receive any response from A-One when it requested details of A-One's appeal.

In the absence of any substantive appeal by A-One, I can find no grounds on which to support the appeal.

ORDER

I order, under Section 115 of the *Act*, that Determination CDET# 000677 be varied to show the Total Amount Payable as \$157,035.82 as set out in the attached Appendix "A"

Geoffrey Crampton
Chair
Employment Standards Tribunal

GC:sf