

EMPLOYMENT STANDARDS TRIBUNAL
In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act

-by-

Timeac International Inc.
("Timeac")

and

Robert Lassetter
("Lassetter")

-of a Determination issued by-

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE No's.: File No. 96/195 (Timeac)
File No. 96/237 (Lassetter)

DATE OF HEARING: May 27, 1996

DATE OF DECISION: May 30, 1996

DECISION

APPEARANCES

Herman Cheung for Timeac International Inc.
Robert Lassetter on his own behalf
Joanne Kembel for the Director of Employment Standards

OVERVIEW

This is an appeal brought by both Timeac International Inc. (“Timeac”) and Robert Lassetter (“Lassetter”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from Determination No. CDET 001416 issued by the Director of Employment Standards (the “Director”) on March 1, 1996. The Director determined that Timeac owed Lassetter the sum of \$18,722.38 on account of unpaid overtime and vacation pay and interest.

ISSUES TO BE DECIDED

Two principal issues arise in this appeal, first, whether or not Lassetter was a “manager” and therefore not entitled to claim overtime under the *Act*, and second, whether or not a portion of Lassetter’s overtime claim had previously been settled between the parties.

ANALYSIS

At the conclusion of the employer’s case, I indicated to the parties that I was not satisfied, based on the evidence before me, that Lassetter was a “manager” as defined in the Regulations under the *Act*. In particular, I indicated that I was not satisfied that Lassetter’s primary duties involved the supervision and direction of other Timeac employees. I also raised with Lassetter some concerns I had with respect to the overtime “settlement agreement” and his position that such an agreement was void by reason of section 4 of the *Act*. I then inquired of the parties if, in light of my comments, there was some mutual desire to attempt to resolve the issues in dispute between them. I was advised by both parties that it might be fruitful to adjourn the appeal hearing briefly so that the parties could endeavour to reach a mutually agreeable resolution. I suggested that perhaps Ms. Kembel might serve as “mediator” and she, with the consent of the parties, agreed to mediate.

I am pleased to report that with Ms. Kembel’s assistance, the parties were, in fairly short time, able to reach a settlement. Both parties advised me that they were prepared to consent to the

withdrawal of their respective appeals. The parties also agreed to provide the Tribunal with a copy of their mutual release agreement. It is my understanding that this latter release agreement has now been provided to the Tribunal.

ORDER

I hereby order, with the consent of both Timeac and Lassetter, that their respective appeals from Determination number 001416 be withdrawn.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal