

An appeal

- by -

Independent and Electric Controls Ltd.
(“IEC”)

- 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.: 2010A/134

DATE OF DECISION: November 12, 2010

DECISION

SUBMISSIONS

Hans Suhr

on behalf of the Director of Employment Standards

OVERVIEW

1. This decision completes an appeal filed by Independent Electric and Controls Ltd. (“IEC”) of a Determination issued by a delegate of the Director of Employment Standards (the “Director”) on May 28, 2010.
2. The Determination was issued on a complaint filed by Allen M. Gault (“Gault”) and found that IEC had contravened Part 3, section 17 and Part 7, section 58 of the *Act* and ordered IEC to pay Gault an amount of \$2,204.94, an amount which included wages and interest.
3. The Director also imposed an administrative penalty on IEC under Section 29(1) of the *Employment Standards Regulation* (the “*Regulation*”) in the amount of \$1,000.00.
4. In BC EST # D105/10 (the “original decision”), I found the Director had erred in calculating the annual vacation pay owed to Gault and referred the Determination back to the Director to make necessary changes in that calculation.
5. The Director has reviewed the matter and has issued a supplement to the Determination, dated October 1, 2010, indicating the Determination should be varied to show Gault is owed annual vacation pay in the amount of \$1,393.36, plus interest in the amount of \$21.38. The Tribunal has requested submissions from the parties on the vacation pay calculation set out in the supplement, but neither has responded.
6. I accept the calculation in the supplement accords with the original decision and with the provisions of the *Act*. When the administrative penalty is added to the vacation pay calculation, the total amount of the Determination is \$2,414.74.
7. IEC has deposited an amount with the Director. The Director has suggested how this deposit may be distributed. The method of distribution of the deposit seems appropriate; I make no order at this time concerning distribution and leave that matter to the Director.

ORDER

8. Pursuant to Section 115 of the *Act*, I order the Determination dated May 28, 2010, be varied to show the amount of the Determination as \$2,414.74, together with any interest that has accrued under section 88 of the *Act*.



David B. Stevenson
Member
Employment Standards Tribunal