

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 -

Bursaw Holdings Ltd dba Prestige Professional Dry Cleaners

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: John M. Orr

FILE No: 96/646

DATE OF HEARING: March 24, 1997

DATE OF DECISION: March 24, 1997

DECISION

OVERVIEW

This is an appeal by Bursaw Holdings Ltd (Bursaw) pursuant to Section 112 of the Employment Standards Act (the "Act") from a Determination, number CDET 004338, issued on October 17, 1996 by the Director of Employment Standards ("the Director").

The Determination found that Bursaw had contravened sections 40(1), 17(1), 58(1), of the Act relating to the non-payment of overtime in relation to a purported flexible work schedule. The determination found that a proper flexible work schedule was not in place and that Bursaw was liable to pay to an employee, Karmen Figueiredo, a total amount of \$305.77 including adjusted holiday pay and interest.

Bursaw appealed and alleged that there was a flexible work schedule in place voted and accepted by more than 65% of the employees and that this one employee therefore was bound by the agreement.

APPEARANCES:

Murray Bursaw	Representing Bursaw Holdings Ltd
Karmen Figueiredo	Representing Herself
Gerry Omstead	For the Director

HEARING:

After opening statements the appellant called evidence from his bookkeeper Ms Esme Carey and Mr Bursaw gave evidence. I then also heard evidence from Ms Figueiredo and some additional comments from Mr Omstead. It became clear that there were some discrepancies in accounting records. The hearing was stood-down for a period of time during which the representative of the director met with the parties to explore the possibility of settlement of the appeal and the complaint. The parties were able to reach a settlement. The Hearing was reconvened and the settlement was discussed and I am satisfied that the settlement is consistent with the purposes of the *Act*.

ORDER

Pursuant to Section 115 of the *Act* I order that the Determination Number CDET 004338 dated October 17, 1996 be varied to show the total amount payable as \$450.00.

JOHN M. ORR
ADJUDICATOR
EMPLOYMENT STANDARDS TRIBUNAL