

**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 -

Adam Gagnon operating A. B. Gagnon Contracting  
("Gagnon")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Geoffrey Crampton

**FILE NO.:** 96/309

**DATE OF DECISION:** July 16, 1996

**DECISION**

**OVERVIEW**

This is an appeal by Adam Gagnon operating A. B. Gagnon Contracting (“Gagnon”), pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”), against Determination No. CDET 002011 which was issued on April 19, 1996 by a delegate of the Director of Employment Standards. Gagnon disputes the delegate’s authority to issue any Determination and, specifically, a Determination that finds a contravention of Section 21 of the *Act*.

I have reviewed the documents provided by Gagnon and the information provided to the Tribunal by the Director’s delegate. I conclude that the Determination should be confirmed.

**FACTS**

The Reason Schedule attached to the Determination sets out the facts on which the Director’s delegate relied to find that Gagnon owes wages to a former employee, Thomas Daniels (“Daniels”).

Gagnon does not deny that he deducted \$1,300.57 from Daniels wages without his authorization

The Director’s delegate determined that Gagnon also owes overtime wages to Daniels under Section 35 and 40 of the *Act*.

Gagnon’s reasons for appealing the Determination are:

*“There is no Section 21(1) of the Employment Standards Act;  
Section 21 discloses no violation  
Section 79 does not authorize making a determination.”*

Gagnon attached to his appeal a copy of certain Sections of the *Employment Standards Act* S.B.C., Ch. 10 (the “former *Act*”).

**ANALYSIS**

Gagnon’s appeal is unfounded. He has, inadvertently, referred to the former *Act* as the foundation for his appeal.

The current *Employment Standards Act* was proclaimed into force on November 1, 1995.

Section 21(1) of the *Act* states:

Except as permitted or required by this Act or any other enactment of British Columbia or Canada, an employer must not, directly or indirectly, withhold, deduct or require payment of all or part of an employee's wages for any purpose.

Section 79(1) of the states:

On completing an investigation, the director may make a determination under this section.

Gagnon has not provided any substantive reason why the Determination is in error.

**ORDER**

I order, pursuant to Section 115 of the *Act*, that the Determination be confirmed.

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**Geoffrey Crampton**  
**Chair**  
**Employment Standards Tribunal**

GC:sr