BC EST #D191/96

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 -

Williams Roofing and Drainage Ltd. ("Williams")

- of a Determination issued by -

The Director of Employment Standards (the "Director")

ADJUDICATOR: Geoffrey Crampton

FILE No.: 96/172

DATE OF DECISION: July 23,1996.

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DECISION

APEARANCES

Corea Haide for Williams Roofing and Drainage Ltd.

Wayne Mackie for Director of Employment Standards

OVERVIEW

This is an appeal by Williams Roofing and Drainage Ltd. ("Williams"), under Section 112 of the *Employment Standards Act* (the "Act"), against Determination # CDET 001390 which was issued by a delegate of the Diector of Employment Standards on March 1, 1996. In this appeal, Williams claims that no wages are owed to Michael Stein ("Stein").

A hearing was held on July 22,1996. Williams and Stein were notified of the hearing, but Stein did not attend the hearing. Corea Haide appeared on behalf of Williams.

ISSUE TO BE DECIDED

The issue to be decided is whether Williams owes wages to Stein as set out in the Determination.

FACTS

Stein was employed by Williams as a roofer between June and September, 1995. He was paid \$9.00 per hour during the first semi-monthly pay period and \$10.00 per hour thereafter.

The Calculation Schedule attached to the Determination shows that Stein is owed overtime wages(\$1,021.50), regular wages(\$245.00) and vacation pay(\$50.66) totalling \$1,317.16 minus an amount of \$67.86 which was paid by Williams during the investigation of Stein's complaint by the Director's delegate. The Director's delegate did not submit any documents to the Tribunal, either before the hearing or at the hearing, to support Stein's complaint concerning unpaid overtime wages

Williams' payroll records pertaining to Stein's employment were put into evidence at the hearing by Corea Haide ("Haide"), William's bookkeeper. Those record show that 4% vacation pay was calculated and paid to Stein at the end of each semi-monthly pay period. The payroll records also show that the wages paid to Stein were calculated from Stein's daily hours of work records (time sheets). Cash advances paid by Williams to Stein were also recorded along with the statutory deductions for income tax, etc.

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The Director's delegate who attended the hearing acknowledged that Williams' payroll records, which had not been submitted to the Employment Standards Branch before the Determination was issued, support the conclusion that no wages are owed to Stein.

ANALYSIS

I find that the payroll records which were put into evidence at the hearing show that Williams does not owe wages to Stein.

ORDER

I order, pursuant to Section 115 of the *Act*, that Determination # CDET 001390 be cancelled.

Geoffrey Crampton,

Chair

Employment Standards Tribunal