

EMPLOYMENT STANDARDS TRIBUNAL
In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act R.S.B.C. 1996, C. 113

- by -

Navinder Singh Sahota
("Sahota")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 98/223

DATE OF DECISION: May 21, 1998

DECISION

OVERVIEW

This is an appeal by Navinder Singh Sahota (“Sahota”) under Section 112 of the *Employment Standards Act* (the “*Act*”) against a Determination which was issued by a delegate of the Director of Employment Standards on April 3, 1998. The Director’s delegate dismissed Sahota’s complaint as it had not been filed within the statutory time limits.

I have made this decision following a review and analysis of the Determination and written submissions.

ISSUE TO BE DECIDED

Does Sahota’s complaint comply with the time limit requirements set out in Section 74(3) of the *Act*?

FACTS

Sahota was employed by Gill Framing Company Ltd. (“Gill”) from April 10, 1996 to January 25, 1997. He filed a complaint at the Employment Standards Branch alleging that Gill owed him wages for the period from November 25, 1996 to January 25, 1997.

The Director’s delegate determined that Sahota’s complaint was received outside of the time limit contained in Section 74(3) of the *Act* and, therefore, no action would be taken on his behalf.

ANALYSIS

Section 74(3) of the *Act* states that a complaint relating to an employee whose employment has terminated must be delivered in writing to the Employment Standards Branch with 6 months after the last day of employment.

In his appeal Sahota acknowledges that his employment was terminated on January 25, 1997. He submitted a complaint form dated April 14, 1998, the same date that he filed the appeal. Sahota claims that Gill owes him 52 and one-half hours of pay. He further claims that he went to the “Labour Board” about his case in January of 1998.

The Director's delegate submitted a copy of a complaint form signed and dated by Sahota on February 2, 1998. The form indicates it was received by the Employment Standards Branch on February 2, 1998.

When I review the facts and the reasons given by for this appeal, I find that I concur with the Determination. Section 74(3) is clear: a complaint must be delivered in writing within six months after the last day of employment. Sahota's employment was terminated on January 25, 1997. I accept that he delivered a complaint to the Employment Standards Branch on February 2, 1998. Therefore, his complaint is considerably outside the six month time limit.

Section 76 (2) of the *Act* allows the Director or her delegate to refuse to investigate a complaint which is made outside the time limit set out in Section 74(3). In this case, the Director's delegate has declined to investigate this complaint. In my view, the Director's delegate has not erred by choosing to proceed in that manner. The *Act* does not provide for exceptions to the time limits set out in Section 74(3). I find that the Determination is correct and the appeal should be dismissed.

ORDER

I order under Section 115 of the *Act* that the Determination dated April 3, 1998 be confirmed.

Norma Edelman
Registrar
Employment Standards Tribunal