

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 -

ABC Pre-Kast Ltd.
("ABC")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Jim Wolfgang

FILE NO.: 96/382

DATE OF DECISION: September 10, 1996

DECISION

OVERVIEW

This is an appeal by ABC Pre-Kast Ltd. (“ABC”), pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against Determination No. CDET 002505 issued by a delegate of the Director of Employment Standards (the “Director”) on June 6, 1996. In this appeal ABC claims it does not owe any compensation for length of service to Ronald Campbell (“Campbell”).

ISSUE TO BE DECIDED

Did ABC have just cause for terminating Campbell ? If not, what amount for length of service is payable ?

FACTS

Campbell was employed by ABC as a laborer from May, 1989 to April 15, 1996. On April 15, 1996 Campbell was terminated by ABC.

Campbell was the former brother in law of the employer, Brooke Porter, (“Porter”).

It was common knowledge among the employees that ABC was for sale.

ARGUMENTS

ABC contends that Campbell was fired for just cause and state that Campbell had a discussion in the lunchroom with other employees in which he disclosed personal financial information pertaining to Porter.

Porter claims that he contacted the Employment Standards Branch and “explained everything to the woman on the phone. She informed me what Mr. Campbell did was a breach of trust, improper disclosure [sic] of confidential information, and could be terminated immediately [sic] with no severance.”

Campbell contends he was fired for personal reasons relating to his sister and her former husband, Porter.

Campbell states Porter “was the topic of conversation for many years among all employees of ABC Pre-Kast personally [sic] and financially”. He claims the source of most of his information regarding Porter was a result of lunchroom conversation, some provided by Porter’s relatives. He further contends that anyone caught in the politics of the family business ultimately lost their employment, and felt his days were numbered.

Campbell does not deny making a statement indicating Porter’s approximate salary to other employees on April 15, 1996

ANALYSIS

Porter contends that Campbell disclosed personal financial information to other employees.

The incident which gave rise to Campbell being fired took place in the company lunchroom when a employee suggested asking for a raise in pay. Other employees commented there would probably not be a raise this year as the plant was for sale. A third employee, a relative of Porter’s, stated a clause in the agreement of sale required the new owner to retain Porter in employment. It was at this point Campbell made the statement relating to Porter’s salary, “Who would buy the plant when there is a clause to pay Brooke \$60,000.00 a year or more to remain management ?”

Campbell admits he received the salary information relating to Porter from his sister who was involved in a court case with Porter.

Campbell contends the only personal financial information not commonly known by the other employees was Porter’s salary. If that is the case, what is the impact of that disclosure on Porter ?

Executives’ salaries are normally confidential in part to avoid questions as to the relationship to other salaries within the company. As this was a family business that would seem to be less critical than in other situations.

Certainly it should not affect the sale of the business. If there was a clause requiring the new owner to retain Porter in his position, they would be aware of the cost. As the business has since sold, it appears not to have been a problem.

I am not aware of Campbell having disclosed any information other than Porter’s salary. I have no evidence that Campbell had made a practice of passing on confidential information, nor is there any evidence before me of any warnings or letters on his personal file pertaining to any breaches of confidence.

I do not know what Porter said to the person in the Employment Standards Branch to obtain the response he received. If there was more confidential information disclosed to support a dismissal for just cause it has not been provided to me.

While I do not think it was wise or prudent for Campbell to have disclosed personal financial information regarding Porter at his place of work, I do not believe it was just cause for dismissal.

ORDER

Pursuant to Section 115 of the *Act*, I order that Determination No. CDET 002505 be confirmed.

Jim Wolfgang
Adjudicator
Employment Standards Tribunal

JW:sr