

EMPLOYMENT STANDARDS TRIBUNAL

In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act

- by -

Kent Brommeland Operating Canadian Insulation
("Brommeland")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

Adjudicator: Hans Suhr

File No.: 96/442

Date of Decision: September 16 1996

DECISION

OVERVIEW

This is an appeal by Kent Brommeland operating Canadian Insulation (“Brommeland”), pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against Determination No. CDET 003194 issued by a delegate of the Director of Employment Standards (“Director”) on July 4, 1996. In this appeal Brommeland claims that due to his firm not being paid for the project on which William Ceaser (“Ceaser”) was employed he is not able to pay Ceaser the wages that are owed to him.

I have completed my review of the written submission made by Brommeland and the information provided by the Director.

FACTS

Ceaser was employed by Brommeland as an insulator’s helper from January 15, 1996 to January 25, 1996.

There is no dispute that Ceaser is owed wages in the amount calculated by the delegate to the Director and set forth on the Determination.

Ceaser filed a complaint dated April 29, 1996 alleging that he was owed regular wages for the period of his employment by Brommeland.

The delegate of the Director investigated the complaint and subsequently Determination No. CDET 003194 was issued in the amount of \$1092.67.

ISSUE TO BE DECIDED

The issue to be decided in this appeal is whether Brommeland’s alleged inability to pay the wages owed provides relief from the statutory requirement to pay wages.

ANALYSIS

Section 17 of the *Act* requires the payment of all wages earned by an employee. Section 17 states:

Paydays

17. (1) At least semimonthly and within 8 days after the end of the pay period, an employer must pay an employee all wages earned by the employee in a pay period.
- (2) Subsection (1) does not apply to
- (a) overtime wages credited to an employee's time bank
 - (b) statutory holiday pay credited to an employee's time bank, or
 - (c) vacation pay

Furthermore, should the employment of an employee be terminated, Section 18 sets forth the requirements for payment of wages owing.

If employment is terminated

18. (1) An employer must pay all wages owing to an employee within 48 hours after the employer terminates the employment.
- (2) An employer must pay all wages owing to an employee within 6 days after the employee terminates the employment.

There is no provision in the *Act* which relieves an employer from the requirements to pay wages to an employee for **any reason**.

The appeal by Brommeland is therefore dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order that Determination No. CDET 003194 be confirmed.

Hans Suhr
Adjudicator
Employment Standards Tribunal

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