

An appeal

- by -

Vivien Evans  
(the "Employee")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act R.S.B.C. 1996, C.113*

**ADJUDICATOR:** Ib S. Petersen

**FILE No.:** 2001/64

**DATE OF DECISION:** May 23, 2001



Evans informed the Employer that the proposed agreement was not acceptable and, on September 20, she gave notice. In brief, in my view, the facts asserted by Evans at the time of the complaint to the Branch supports the delegate's conclusions regarding her remuneration, that there was never a "meeting of the minds" and, unfortunately for her, therefore, no agreement with respect to commission. I note, as well, that the Employer disputes that there was an agreement to pay 40% of all commissions. In the result, I agree with the delegate that Evans is entitled to the \$8.00 per hour.

With respect to the insurance fee, Evans says that she was "forced" to sign an agreement to transfer her insurance to the Employer. As I understand it, the Employer agreed to advance her the amount of the transfer fee--\$100--"by way of payment to the Insurance Council of BC on [her] behalf." The agreement further provided that the amount would become payable if Evans' employment ceased prior to April 19, 2001. Evans agrees that she is ultimately responsible for her own licence, but says that the Employer has profited from her sales and it is unfair to require her to pay the fee. In the circumstances, there is nothing to support her claim that she was "forced" to sign the agreement. The company provided an advance to her. I agree with the delegate's conclusion that Section 22(4) of the *Act*, which provides that an employer may honour an employee's written assignment of wages to meet a credit obligation, is applicable.

With respect to September 17, 2000, Evans says that she was *required* to attend a "document presentation at the home of ... another employee." She says that she was told to be there at 12:30 to help set up and greet customers going on a cruise. She did other work in connection with these customers, deliver and review travel and cruise documents, confirm transfer information etc., and did not leave until 5:00 p.m. Evans feels she should be compensated for this time. The delegate was unable to establish that she worked on the day in question. In my view, he erred. There is no dispute that she attended the function on September 17. The Employer does not seriously dispute that she performed the functions she claims she performed. The Employer says that it was "voluntary" for her to attend the "barbeque" for the customers going on the cruise and that she was aware that the Employer does not pay for attendance. In light of the fact that she did perform work, I am of the view that she is entitled to be paid for her time at the rate of \$8.00 plus the applicable interest.

Except as noted above, I am of the view that the Employee has not discharged the burden on the appeal and it is dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Employer must pay Evans for her work on September 17, 2000. Otherwise I order that the Determination dated December 21, 2000, be confirmed.

---

**Ib S. Petersen**  
**Adjudicator**  
**Employment Standards Tribunal**