

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 -

Bavarian Motors Ltd.
("Bavarian")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Niki Buchan

FILE NO.: 97/230

DATE OF DECISION: June 20, 1997

DECISION

OVERVIEW

This is an appeal brought by Franz Wagner (“Wagner”) on behalf of Bavarian Motors Ltd. (“Bavarian”), pursuant to S. 112 of the *Employment Standards Act* (the “Act”) of Determination dated March 14, 1997 issued by the delegate of the Director of Employment Standards (the “Director”). The Determination finds that Bavarian Motors Ltd. contravened Section 63 of the *Act* and ordered Bavarian to pay \$4,370.97 to Johnny H. Steffensen (“Steffensen”) as pay in lieu of notice.

ISSUE TO BE DECIDED

Whether Steffensen is entitled to \$4,370.97 pay in lieu of notice, vacation pay and interest as ordered in the Determination?

FACTS

Steffensen was an employee of Bavarian for the period of May 1, 1984 to September 27, 1996. He was given two weeks notice on September 13, 1996 and terminated on September 27, 1996 when Bavarian was sold to new owners.

ANALYSIS

The facts in this case are not in dispute. Wagner argues that Bavarian had no knowledge or was ever informed by Employment Standards during its 14 years of operation to supply employees with more than 2 weeks written notice. He also argues that since the sale was not finalized until September 8, 1996 there was no chance to give Steffensen any more written notice due to the quick takeover on October 1, 1996. These arguments do not relieve Bavarian from its obligation to meet the statutory requirements under the *Act*.

The requirements of the *Act* are the minimum requirements which must be upheld to ensure that employees in British Columbia receive at least basic standards of compensation and conditions of employment. Section 63 sets out the liability of an employer resulting from length of service on termination of employment:

S.63 (2) The employer’s liability for compensation for length of service increases as follows:

(b) after 3 consecutive years of employment, to an amount equal to 3 weeks’ wages plus one additional week’s wages for each additional year

of employment, to a maximum of 8 weeks' wages."

Steffensen's period of employment entitles him to the maximum 8 weeks written notice of pay in lieu of that notice on termination. He received only two weeks notice therefore he is entitled to six weeks pay in lieu for the notice owing as set out in the Determination.. Vacation pay is also owing on the full 8 weeks notice as well as interest as set out in the Calculations. The Determination ordering Bavarian to pay Steffensen \$4,370.79 complies with the requirements under the *Act*. It must be confirmed.

ORDER

In summary, I order under Section 115 of the *Act*, the Determination dated March 14, 1997 be confirmed.

Niki Buchan
Adjudicator
Employment Standards Tribunal