

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 -

Sherry Melenko

– and –

Monique McCurdy

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE No.: 2000/325 and 2000/335

DATE OF DECISION: June 26, 2000

DECISION

OVERVIEW

On April 17, 2000 a delegate of the Director of Employment Standards issued a Determination which found that Coyote Creek Golf and Country Club Catering Ltd. ("Coyote Creek") owed 25 employees \$44, 262.28. Two of the employees, Monique McCurdy ("McCurdy") and Sherry Melenko ("Melenko"), appealed the Determination on the basis that they were owed more wages than the amounts determined by the delegate.

ISSUE TO BE DECIDED

Are McCurdy and Melenko owed additional wages by Coyote Creek?

FACTS

In the Determination, the delegate said Coyote Creek became insolvent on January 31, 2000. At that time, 25 employees were terminated from their employment without notice and the company failed to meet its payroll obligations. The delegate ordered Coyote Creek to pay \$44, 262.28 to the 25 employees. Specifically, he found that McCurdy was owed \$290.50 for compensation for length of service. The delegate also found that Melenko was owed compensation for length of service but not regular wages and vacation pay.

McCurdy appealed the delegate's decision regarding compensation for length of service. She said she worked for Coyote Creek from March 1996. She enclosed a paystub dated March 15, 1996. She had taken maternity leave in 1997 and was on a temporary layoff that ended in January 1998. Nevertheless, she was employed by Coyote Creek for approximately 4 years and not one year as found by the delegate.

Melenko appealed the delegate's decision that she was not owed regular wages and vacation pay. She said she is owed 54 hours of pay for the period January 15 to 31, 2000 and vacation pay of \$1402.00. She included a copy of a paystub for the period ending January 15, 2000 and her Record of Employment.

In reply to the appeals the delegate said he agreed with the appellants. He said that the Determination should be amended as follows:

McCurdy is owed three weeks wages (\$871.50) as compensation for length of service rather than one weeks wages; and Melenko is owed additional regular wages in the amount of \$567.00 (54 hours X \$10.50 per hour) and vacation pay in the amount of \$1402.00.

Although invited to reply to the appeals, no submission was received from Coyote Creek.

ANALYSIS

I am satisfied that the Determination should be varied as outlined above. The delegate agrees with the claims of McCurdy and Melenko and there is no challenge by Coyote Creek. Further, the documents supplied by McCurdy and Melenko (the pay stubs and the Record of Employment) support their claims.

ORDER

I order pursuant to Section 115 of the Act that the Determination dated April 17, 2000 be varied to \$46,812.28 which reflects the additional amount of monies owed to McCurdy and Melenko.

Norma Edelman
Vice Chair
Employment Standards Tribunal