

**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 -

Mark McLeod  
("McLeod")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Geoffrey Crampton

**FILE NO.:** 96/476

**DATE OF DECISION:** October 3, 1996

**DECISION**

**OVERVIEW**

This is an appeal by Mark McLeod (“McLeod”), under Section 112 of the *Employment Standards Act* (the “*Act*”), against Determination No. CDET 113437. The Determination was issued by a delegate of the Director of Employment Standards on July 22, 1996 and it found that McLeod’s former employer, Marsh Logging Ltd. (“Marsh”) had not contravened Section 63 of the *Act*.

I have reviewed the written submissions made by McLeod and Marsh as well as the documents provided to the Tribunal by the Director’s delegate.

**ISSUE TO BE DECIDED**

Is McLeod entitled to compensation for length of service under Section 63 of the *Act*?

**FACTS**

McLeod was employed by Marsh as a Yardman. Payroll records provided by Marsh show that McLeod was employed for the following periods:

February 2, 1993 to August 18, 1993  
January 17, 1994 to August 11, 1994  
December 5, 1995 to January 25, 1996

He had also been employed on a part-time or full-time basis between April, 1982 and May, 1992.

The Reason Schedule attached to the Determination explains McLeod’s employment was deemed to be terminated at the end of each period of employment during 1991, 1992, 1993 and 1994. It also explains that Section 74 requires a complaint must be made under the *Act* within six months after the last date of employment. Thus, the Reason Schedule explains that only the period of employment from December 5, 1995 to January 25, 1996 can be the subject of the delegate’s Determination.

The Determination finds that Marsh did not contravene Section 63 of the *Act* because McLeod’s most recent period of employment (December 5, 1995 to January 25, 1996) was less than three consecutive months.

**ANALYSIS**

Section 63 of the *Act* states:

*After 3 consecutive months of employment, the employer becomes liable to pay an employee an amount equal to one week's wages as compensation for length of service.*

Section 74(3) of the *Act* states:

*A complaint relating to an employee whose employment has terminated must be delivered under subsection (2) within 6 months after the last day of employment.*

McLeod's appeal states only that he feels cheated because his employment was terminated without notice or compensation for length of service. McLeod was provided a copy of Marsh's submissions to the Tribunal as well as a copy of all documents provided by the Director's delegate. He was invited to respond, but did not.

I am unable to find any grounds on which to disagree with the Determination and schedules attached to it. McLeod is not entitled to compensation under Section 63 of the *Act*.

**ORDER**

I order, under Section 115 of the *Act*, that Determination No. CDET 003437 be confirmed.

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**Geoffrey Crampton**  
**Chair**  
**Employment Standards Tribunal**

GC:sr