

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 -

The Electro Surgeon Inc. operating The Drain Surgeon
("Electro")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR:	Hans Suhr
FILE NO.:	97/285
DATE OF DECISION:	June 17, 1997

DECISION

OVERVIEW

This is an appeal by The Electro Surgeon Inc. operating The Drain Surgeon (“Electro”), under Section 112 of the *Employment Standards Act* (the “Act”), against a Determination which was issued by a delegate of the Director of Employment Standards (the “Director”) on April 10, 1997. Electro alleges that the delegate of the Director erred in the Determination by concluding that Kenneth Spaan (“Spaan”) was owed wages pursuant to the “minimum daily pay” requirements of the *Act*. The Director’s delegate concluded that unpaid wages in the amount of \$823.68 plus interest were owed to Spaan.

ISSUE TO BE DECIDED

The issue to be decided in this appeal is whether Spaan is owed wages.

FACTS

Spaan was employed by Electro as a ‘Service Plumber’ from December 17, 1995 to May 9, 1996.

Spaan went onto Worker’s Compensation benefits after May 9, 1996.

Payroll information provided by Spaan for the periods February 1 to 14 and March 15 to 31, 1996 indicates that Spaan worked less than 4 hours on numerous occasions.

Electro was served with a “Demand for Employer Records” on March 6, 1997 however they did not comply with this demand.

Electro was subsequently served with a Determination for a penalty of \$500.00 for failure to provide the required employer records. This Determination was not appealed.

Electro has not provided any information with respect to this appeal except for a letter dated April 22, 1997 with some notations made on the Determination calculation sheet.

ANALYSIS

Electro is obliged, in my view, to provide *some* evidentiary basis to support the allegations contained in their appeal. Electro has merely stated that they disagree with the Determination however they have not provided any evidence to the Tribunal to support their contention.

I have carefully reviewed the material in the file and based on that information, I conclude that Spaan is owed wages.

I have reviewed the calculation of wages owed performed by the delegate of the Director and attached to the Determination and I am satisfied that they are correct.

For all of the above reasons, this appeal is dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination be confirmed in the amount of \$823.68 **plus** interest calculated pursuant to Section 88 of the *Act*.

Hans Suhr
Adjudicator
Employment Standards Tribunal