

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 -

Iain Bourhill

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: John M. Orr

FILE No: 1999/271

DATE OF HEARING: July 09, 1999

DATE OF DECISION: July 13, 1999

DECISION

APPEARANCES

Iain Bourhill	On his own behalf
Robert McDougall	On behalf of Haliburton Golf Inc.

OVERVIEW

This is an appeal by Iain Bourhill ("Bourhill") pursuant to Section 112 of *the Employment Standards Act* (the "*Act*") from a Determination (File No. 091488) dated April 16, 1999 by the Director of Employment Standards (the "Director").

Bourhill was a High School student employed by Haliburton Golf Inc. ("Haliburton") at a par three golf course and driving range near Victoria. He worked on and off after school at the golf course from November 1995 to June 1998. There were irregularities in his pay for wages including such things as minimum hours, overtime, and statutory holidays. These matters were rectified in the Determination and he has received full payment. He was also awarded one week's pay as compensation for length of service.

The only issue on this appeal is that Bourhill claims that he is entitled to two week's pay for compensation because he worked for Haliburton for more than twelve months.

ISSUES TO BE DECIDED

The issue to be decided in this case is whether Bourhill is entitled to two weeks pay as compensation for length of service.

FACTS AND ANALYSIS

Bourhill was employed by Haliburton overall for more than two and a half years but it is evident from the Determination and the evidence given at the hearing that his employment was not continuous. His employment was interrupted during the winter months of 1997/98. There is some issue about why his work stopped and whether he quit his position in October 1997. Mr Bourhill does not accept the suggestion that he quit but conceded at the hearing that, for whatever reason, he did not work from November 1997 through March 1998.

The applicable provisions of the *Act* are as follows:

Liability resulting from length of service

63. (1) *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.*

(2) *The employer's liability for compensation for length of service increases as follows:*

(a) *after 12 consecutive months of employment, to an amount equal to 2 weeks wages;*

Bourhill could not establish that in June, 1998, he had been employed for 12 *consecutive* months. In fact he conceded that he was not employed for some part of the winter of 1997/98. Therefore I must conclude that he was not employed for more than 12 consecutive months and that the employer's liability had not increased beyond the one week's wages as provided in section 63(1).

ORDER

I order, under Section 115 of the *Act*, that the Determination is confirmed.

John M. Orr
Adjudicator
Employment Standards Tribunal