

**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 -

Terry Nemeth  
Operating  
Exterior Wall Systems  
("Nemeth")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Barry Goff

**FILE NO.:** 96/388

**DATE OF DECISION:** October 25, 1996

## **DECISION**

### **OVERVIEW**

This is an appeal brought by Terry Nemeth operating Exterior Wall Systems ("Nemeth") under section 112 of the *Employment Standards Act* (the "Act") against Determination No. CDET 002530 which was issued by the delegate of the Director of Employment Standards. The Determination shows that Nemeth owes wages totalling \$4,361.91.

Nemeth disputes the amount of hours and wages owing.

I have reviewed the written submission which Nemeth made to the Tribunal as well as the information provided by the Director's delegate.

### **ISSUE TO BE DECIDED**

The issue to be decided is whether Nemeth owes the amount set out in the Determination?

### **FACTS**

Nemeth provided the following reasons for his appeal to the Determination.

*"I question Mr. Campbell's records of the amount of hours worked and the amount of wages owing. Due to the uncertainty I appeal this determination. I would like to sit down and work out a solution."*

The reason schedule attached to the Determination states that Nemeth did not respond to phone messages or a letter sent requesting him to contact the Employment Standards Branch ("ESB"). The information used in support of the Determination was obtained from the records kept by the complainant as Nemeth did not provide payroll records.

Following receipt of Nemeth's appeal, the Director's delegate, William Bull wrote to the Regional Administrator of the ESB and recommended that the Tribunal attempt to contact Nemeth with a view to working out a settlement.

The Tribunal did attempt to contact Nemeth by phone and letter without success.

**ANALYSIS**

The burden of proof in this appeal rests with Nemeth. Nemeth did not respond to the initial request of the Director's delegate to discuss the complaint nor to the repeated efforts of the tribunal to contact Nemeth in response to his appeal and request for a settlement discussion. Nemeth has failed to provide any grounds in support of his appeal. I am unable to conclude that there is any basis to disturb the Determination.

**ORDER**

Pursuant to Section 115, I order that Determination No. CDET 002530 be confirmed.

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**Barry Goff**  
**Adjudicator**  
**Employment Standards Tribunal**

BJG:sc