

**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-

Catherine Becker  
("Becker")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

<b>ADJUDICATOR:</b>	C. L. Roberts
<b>FILE NO.:</b>	97/207
<b>DATE OF DECISION:</b>	July 7, 1997

## DECISION

### OVERVIEW

This is an appeal by Catherine Becker ("Becker"), pursuant to Section 112 of the *Employment Standards Act* (the "Act"), against a Determination of the Director of Employment Standards (the "Director") issued on March 10, 1997. The Director found that Becker was not owed regular wages, and that as she was a manager, she was excluded from Part 4 and 5 of the Act. The Director found the Royal Canadian Legion Victoria (#7) ("R.C.L.") was not in contravention of the Act. The appeal is being dealt with by written submissions.

### ISSUE TO BE DECIDED

Whether Becker is a manager, and whether she is owed wages.

### FACTS

Becker worked as Secretary Manager for R.C.L from August 6, 1987 to September 30, 1996. In that capacity, she performed a wide variety of duties including budgeting, administering controls over purchases, manpower usage and inventory of supplies and materials, establishing rules and regulations, ensuring that branch activities were consistent with the policies and objectives set by the Executive of the Branch and in accordance with the bylaws, the disciplining and dismissal of employees, and general operation and maintenance of the building. She reported directly to the President and Executive of R.C.L.

The Director, after a review of the payroll records, determined that regular wages were paid to Becker. Because Becker had flexible working hours, the Director was unable to determine that she was owed any additional wages. The Director also determined that since Becker exercised supervisory and executive responsibilities, she was exempt from Part 4 and Part 5 of the Act (the overtime and statutory holiday provisions).

Becker claims that her overtime hours were spent performing secretarial/clerical duties, not management functions, for which she should be compensated.

### ANALYSIS

The burden of establishing that the Director's Determination is in error rests with the Appellant. Having reviewed Becker's submissions, I am not satisfied the decision is incorrect.

Section 1(1) of the *Employment Standards Regulation* defines manager as

- (a) a person whose primary employment duties consist of supervising and directing other employees, or
- (b) a person employed in an executive capacity.

Becker submitted her job description with her initial complaint letter. That document indicates that she was the administrative officer of the Branch, and that her primary duties were management duties. No evidence was submitted on appeal to suggest this was not the case. Although Becker argued that her job description was not reviewed with her, she did submit a list of the duties she carried out as well as the job description with her initial claim. Both indicate that she performed work of a supervisory as well as an executive nature. The Director was entitled to rely on the job description as an accurate depiction of the job Becker performed. No evidence was submitted on appeal to suggest those duties were not carried out.

Even though Becker may also have performed clerical duties, that fact does not change her status as a manger. Consequently, she is not entitled to overtime pay.

**ORDER**

I order, pursuant to Section 115 of the *Act*, Determination #013043 be confirmed.

**Carol Roberts**  
**Adjudicator**  
**Employment Standards Tribunal**