

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 -

Mr. Jas Sandher
Operating as the Dresser Drawer
("Employer")

- of a Determination issued by -

The Director Of Employment Standards
(The "Director")

ADJUDICATOR: Richard S. Longpre

FILE NO.: 97/214

DATE OF HEARING: June 20, 1997

DATE OF DECISION: July 3, 1997

On March 14, 1997 the Delegate issued the Determination Letter imposing the \$500.00 penalty. On April 14, 1997 the Employment Standards officer investigating Panasiuk's complaint issued a Determination Letter ordering the Employer to pay the \$148.47.

ANALYSIS

The appeal hearing on June 20, 1997 dealt with the Employer's appeal of the \$500.00 and whether there was not just cause for the termination of Panasiuk. This latter issued was resolved. Sandher and Panasiuk attended at the hearing. The Director's representative did not attend.

Section 98(1) of the *Act* gives the Director the discretion to impose a monetary penalty. It reads:

98(1) If the director is satisfied that a person has contravened a requirement of this Act or the regulations or a requirement imposed under section 100, the director may impose a penalty on the person in accordance with the prescribed schedule of penalties.

Nothing in the file suggests that there had been a dispute over the amount of Panasiuk's claim in the original complaint. The sole issue before the Delegate was the issue of just cause. The records had nothing to do with whether or not Panasiuk was terminated for just cause. The Demand For Employer Records served no purpose in dealing with Panasiuk's complaint.

On February 14 the Employment Standards officer wrote Sandher a letter confirming a conversation that he did not find just cause for Panasiuk's termination. The Determination on whether there was just cause for termination, however, was not issued until April 14. I see no purpose to request employment records on February 25 and to impose the \$500.00 penalty on March 14, 1997 in these circumstances. Had the Employment Standards officer issued the Determination, the Employer would have paid the \$148.47 or appealed that Determination.

Without any rationale to a penalty being imposed, it can not be confirmed.

ORDER

Pursuant to section 115 of the Employment Standards Act, Determination letter dated March 14, 1997 is canceled.

Richard S. Longpre
Adjudicator
Employment Standards Tribunal