

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 -

A-AAA Consumer Electronics Ltd.
("A-AAA Consumer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Geoffrey Crampton

FILE NO.: 96/655

DATE OF DECISION: December 11, 1996

DECISION

OVERVIEW

This is an appeal by A-AAA Consumer Electronics Ltd. (“A-AAA Consumer”), under Section 112 of the *Employment Standards Act* (“the Act”), against Determination #CDET 004330 which was issued by a delegate of the Director of Employment Standards on October 16, 1996.

The Determination requires A-AAA Consumer to pay the sum of \$1,942.03 to Marius Bleier (\$1,077.43) and to Bianca Bleier (\$864.60) in respect of unpaid wages, annual vacation pay and interest (accrued to October 16, 1996).

Gino G. Depieri, who submitted an appeal on behalf of A-AAA Consumer, gave the following reason for making this appeal:

“Before I pay anymore money I want my tools and service manuals-etc.- returned. Also they owe me seven months rental for TV and fax machine.”

FACTS

The Determination sets out the following undisputed facts, findings and conclusion:

Undisputed Facts:

Marius Bleier worked as technician for the employer from February 19, 1996 to March 15, 1996 at a rate of \$12.00 per hour. Bianca Bleier worked as a receptionist for the employer from March 4, 1996 to March 15, 1996 at a rate of \$10.00 per hour.

The employer did issue cheques #066 and 067 which were presented to the institution upon which they were drawn which advised that there was not sufficient funds in the account to cover the amount of the cheques.

Findings:

The employer has acknowledged owing wages and even though not permitted to set these off against the loaned machinery, has had the machinery returned in care of the Employment Standards Office Branch in Surrey. The employer has neither picked up the television or fax machine nor paid the wages owing.

Conclusion:

The wages are owing in the amounts set out in the Calculation Schedules.

ANALYSIS

A-AAA Consumer's appeal does not challenge any of the substantive facts or reasoning that are set out in the Determination.

Section 21 of the *Act* states, in part:

(1) Except as permitted or required in this Act or any other enactment of British Columbia or Canada, an employer must not, directly or indirectly, withhold, deduct or require payment of all or part of an employee's wages for any purpose.

(2) An employer must not require an employee to pay for any of the employer's business costs except as permitted by the regulations.

In short, Section 21(2) of the *Act* prohibits A-AAA Consumer from withholding the wages owed to Mr. & Mrs. Bleier.

ORDER

I order, pursuant to Section 115 of the *Act*, that Determination #CDET 004330 be confirmed.

Geoffrey Crampton
Chair
Employment Standards Tribunal

GC:nc