

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 -

Helen Stark

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Ian Lawson

FILE NO.: 96/637

DATE OF DECISION: December 17, 1996

DECISION

OVERVIEW

This is an appeal by Helen Stark pursuant to Section 112 of the *Employment Standards Act* ("the Act"). The appeal is from an unnumbered Determination issued by Gerry Olmstead as a delegate of the Director of Employment Standards on October 11, 1996.

The Determination advised Ms. Stark that her complaint about being dismissed without just cause or without notice would not be proceeded with. Ms. Stark filed an appeal on October 30, 1996. The appeal was decided on the basis of written submissions without an oral hearing.

FACTS

The Appellant was employed as a supervisor by Yvonne Hourigan, carrying on business as Farmer in the Dell Daycare. The Appellant had worked for this business for approximately two years until May 15, 1996, when she was dismissed. It is unclear whether the Appellant was given written notice of termination on that day, but there is in the Tribunal file a handwritten letter from Ms. Hourigan dated May 15, 1996, advising the Appellant that she was being given her "official two weeks notice" and that her last day of employment would be May 31, 1996. Whether or not the Appellant actually received this notice in writing, she acknowledges that she was aware on May 15, 1996 that May 31, 1996 would be her last day of employment, and she worked until her last day.

The Appellant does not take issue with the form of notice. Instead, she claims that she was "unjustly dismissed." She disputes that the employer had a proper reason to dismiss her, and says she received no prior warning or discipline before being dismissed. After persisting in her effort to learn why she was dismissed, the Appellant advises that she was dismissed because of her failure to ensure the daycare was cleaned on the Friday afternoon before her dismissal. The Appellant claims that this is not sufficient cause, and requests "termination pay" of two days' pay for each year she worked, and also the sum of \$3,000.00 "for loss of a supervisor's job."

ISSUE TO BE DECIDED

This appeal requires me to decide whether the employer must pay any sum of money to the Appellant as a result of what the Appellant alleges to be a dismissal without just cause.

ANALYSIS

An employer may terminate an employee without giving any reasons, provided adequate advance notice is given of the termination. The *Act* imposes a minimum requirement for pay in lieu of notice to terminated employees. Section 63(2)(a) provides that after 12 consecutive months of employment, an employer must provide compensation in an amount equal to 2 weeks' wages; after 3 consecutive years of employment, the amount of this compensation increases by one week's wages for each additional year of employment, to a maximum of 8 weeks' wages.

I have no jurisdiction to find that any amount of notice greater than the statutory minimum must be given by an employer. In the Appellant's case, the *Act* requires that she be given compensation in an amount equal to 2 weeks' wages, which was done by the employer allowing her to work the final 2 weeks of her employment.

I see no merit in the Appellant's contention that she was dismissed without just cause. She was indeed dismissed, but the reason for her dismissal is irrelevant as her employer complied with the minimum requirements of the *Act* for notice of that dismissal. The Appellant clearly disagrees with the reason that was given for her termination. As I have said, however, her employer in the circumstances is not required to give the Appellant a reason for her dismissal.

There is equally no merit in the Appellant's claims for "termination pay" plus \$3,000.00, as there is no basis under the *Act* for such payments.

ORDER

After carefully considering the evidence and argument, I find that the Determination made by Mr. Olmstead is correct and the appeal should be dismissed. Pursuant to Section 115 of the *Act*, I order that the Determination dated October 10, 1996 be confirmed.

Ian Lawson
Adjudicator
Employment Standards Tribunal