

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 -

Plaztech Industries Inc.
("Plaztech" or the "Employer")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Ib S. Petersen

FILE No.: 2000/474 and 2000/494

DATE OF DECISION: September 21, 2000

DECISION

SUBMISSIONS

Mr. William Ball	on behalf of the Employer
Mr. Waldemar Gorka	on behalf of himself
Mr. Al Brulotte	on behalf of the Director

FACTS AND ANALYSIS

This case arises out of an appeal of two Determinations, both dated June 22, 2000. The Determinations found that Waldemar Gorka and Heath N. Casey had been laid off and not returned to work from the Employer's manufacturing operation in Cranbrook, B.C. As well, the Determination found that the Employer had not paid the regular wages for these two employees for the last two weeks of their employment. The Determination found that Gorka was entitled to 8 weeks compensation for length of services, based on his employment as a machinist with the Employer from October 5, 1992 until May 22, 2000. Casey was entitled to 7 weeks. He had been employed from April 1, 1993 until May 22, 2000. Gorka's rate of pay was \$18.50 per hour; Casey's was \$14.00.

The Employer appeals the Determinations. The Employer does not dispute some liability but says that it did not commence operations until December 1, 1995 and, therefore, should pay less on account of compensation for length of service and vacation pay to these two former employees. There are no particulars to the basis for the appeal, the claim that the Employer did not commence operations until 1995. I gather from Gorka's submission that the Employer reorganised in 1995. However, he says that he worked continuously from October 5, 1992 until his layoff on May 22, 2000. He does not agree that his severance should reflect this reorganisation. The Employer does not respond to or otherwise dispute the information provided by Gorka. In any event, the ROEs for these two former employees, signed by the Employer, confirms the information provided by them. On their ROEs their start dates are indicated as October 5, 1992 and April 1, 1993, respectively. As mentioned in numerous cases, the appellant has the burden to prove the Determination wrong. In the case at hand, I am of the opinion that the appellant Employer has not provided any evidence that would show that the Determinations are wrong. In the result, the appeal is dismissed.

ORDER

I order that the Determinations dated June 22, 2000 be confirmed.

Ib Skov Petersen

**Adjudicator
Employment Standards Tribunal**