

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 -

RJK Farm labour Ltd.
("RJK" or the "Employer")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Ib S. Petersen

FILE No.: 2000/493

DATE OF DECISION: October 3, 2000

DECISION

APPEARANCES/SUBMISSIONS

Mr. Kuldip Ball on behalf of RJK

Mr. Jim Walton on behalf of the Director

FACTS AND ANALYSIS

This is an appeal by the Employer pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against a Determination of the Director’s delegate issued on June 29, 2000. In the Determination, the Director’s delegate found that RJK contravened Section 6(4) of the *Regulation* by failing to have the daily log available for inspection. RJK disputes the \$0.00 penalty.

Section 6(4) of the *Regulation* provides (in part):

6(4) *A farm labour contractor must keep at the work site and make available for inspection a daily log by the director that includes....*

In this case, the Employer admits that it did not keep the daily log at the work site. Mr. Ball, who was not present on site at the time of the inspection, argues that the Employer does not feel safe leaving the log with an employee because it contains S.I.N. numbers. The delegate notes that the Employer has been in the farm labour business for some 5 years and is aware of the requirements. The delegate also notes that Mr. Ball’s father was present at the site and does not agree that Mr. Ball should have felt uncomfortable leaving the log with his father or a specific employee. Moreover, the delegate argues that the Branch has informed contractors that it would take a “zero-tolerance policy” towards non-compliance with this provision.

I agree with the delegate. The burden is on the appellant, here the Employer, to prove that the Director’s delegate exercised his authority in a manner contrary to the *Act* and the *Regulation*. The Employer has not done so. In fact, the Employer admits not complying with the *Regulation*. The reasons for not doing so are not credible. In the result, the appeal fails.

ORDER

Pursuant to Section 115 of the Act, I order that the Determination in this matter, dated June 29, 2000 be confirmed.

Ib Skov Petersen

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Adjudicator
Employment Standards Tribunal