

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 -

Andrew Maillet
("Maillet")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: David B. Stevenson

FILE No.: 2000/226

DATE OF DECISION: October 17, 2000

DECISION

OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Andrew Maillet (“Maillet”) of a Determination that was issued on March 21, 2000 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that Maillet was owed an amount of \$21,398.66 for unpaid overtime. Maillet has appealed that decision, claiming the Director incorrectly calculated the amount owing by failing to credit Maillet with the correct hourly wage rate for the work he performed during the period in question.

The Determination was also appealed by the employer, Williston Navigation Inc., who contended that Maillet was excluded from the provisions of Part 4 of the *Act*. In *Re Williston Navigation Inc.*, BC EST #D391/00, the Tribunal concluded that Maillet, and two other employees, Clayton Bye and James Wood, were excluded from Part 4 of the *Act* in respect of their employment on the Williston Transporter. As a result of this conclusion, the Determination was cancelled and the matter referred back to the Director to recalculate the overtime owed to any of the complainants for work performed on F. N. 1 and/or F. N. 2.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determination dated March 21, 2000 be cancelled and the matter referred back to the Director to recalculate the overtime owed to any of the complainants for work performed on F. N. 1 and/or F. N. 2.

David B. Stevenson

David B. Stevenson
Adjudicator
Employment Standards Tribunal