

**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 -

Lee Andrew Nelson Harron  
("Harron")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Hans Suhr

**FILE NO.:** 97/448

**DATE OF HEARING:** August 28, 1997

**DATE OF DECISION:** September 2, 1997

**DECISION**

**APPEARANCES**

|                          |   |
|--------------------------|---|
| Lee Andrew Nelson Harron | on his own behalf   |
| Ray Paquet               | on behalf of R.A. Paquet Mechanical Service<br>operating as Ener-Save |

**OVERVIEW**

This is an appeal by Lee Andrew Nelson Harron (“Harron”) pursuant to Section 112 of the *Employment Standards Act* (the “Act”) of a Determination dated May 16, 1997 issued by a delegate of the Director of Employment Standards (the “Director”). The delegate of the Director determined that Nelson had quit his employment and consequently was not entitled to receive compensation for length of service from R.A. Paquet Mechanical Service operating as Ener-Save (“Ener-Save”). Harron alleges that the delegate of the Director erred in determining that he had quit.

**ISSUE TO BE DECIDED**

The issue to be decided in this appeal is whether Harron quit or was fired ?

**FACTS**

The following facts are not in dispute:

- Harron was employed as an apprentice sprinkler fitter from April 18, 1994 to February 12, 1997;
- On the morning of February 12, 1997, Ray Paquet (“Paquet”) a principal of Ener-Save advised Harron that due to a decision of the Apprenticeship Branch, Harron’s apprenticeship was being extended a further 17 months. Furthermore, Harron’s wage was being adjusted to be in line with the scale set by the Apprenticeship Branch for an apprentice at his level in the program, Harron was being taken off “calls” in order to spend more time with a journeyman and therefore Harron did not require a company vehicle anymore;
- Harron then was told to go and clean the shop;
- Ener-Save then proceeded to dismiss 3 other employees at this time;

- Paquet later found Harron standing outside of the shop talking to the 3 employees who had been dismissed and Paquet instructed Harron to go and clean up the shop, Harron refused;
- Paquet asked Harron again to clean up the shop and again Harron refused;
- Paquet told Harron to either go clean up the shop or leave with his friends to which Harron replied that he would be leaving with his friends;
- Harron then packed up all of his tools and left the company premises with the 3 dismissed former employees;
- the next morning, Harron appeared at the company premises and asked Paquet “Do I still have a job?” to which Paquet replied “No”.

Harron further states that:

- he did not tell Paquet he was quitting his job;
- he refused to go and clean the shop as it had already been done and it was clean enough;
- there was no work for him as his journeyman had already left for the days work;
- he packed up his tools and left with his friends as the premises were not secure, there was no insurance in case his tools were stolen and he needed the ride home.

Paquet further states that:

- arrangements had already been made for the journeyman to come back to the shop to pick up Harron and assigning him to clean up the shop was intended to keep him busy until the journeyman came back;
- the company premises are secure and there is insurance in case of theft of employee’s tools;
- some areas of the shop were in definite need of cleaning up.

## ANALYSIS

The burden of establishing that the Determination was in error rests with the appellant, Harron. The evidence provided by both Harron and Paquet agree that Harron was asked to clean the shop on more than one occasion and was finally told to either clean the shop or leave with his friends, Harron chose to leave with his friends **after packing up all his tools**. Harron’s evidence of coming to work the next day and asking Paquet if he still had a job is certainly indicative of having quit the previous day. It is not necessary for an employee to state “I quit” in order to be found to have quit his employment, rather, as in this case Harron’s actions in packing up his tools and leaving the workplace conveyed his intentions.

I conclude, based on the evidence, that Harron quit his employment on February 12, 1997 and therefore he is **not** entitled to compensation for length of service.

For all of the above reasons, the appeal by Harron is dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination dated May 16, 1997 be confirmed.

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**Hans Suhr**  
**Adjudicator**  
**Employment Standards Tribunal**