

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 -

Alexander D. Blackwood
("Blackwood")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Hans Suhr

FILE NO.: 97/597

DATE OF DECISION: September 2, 1997

DECISION

OVERVIEW

This is an appeal by Alexander D. Blackwood (“Blackwood”) pursuant to Section 112 of the *Employment Standards Act* (the “Act”) of a Determination dated July 14, 1997 issued by a delegate of the Director of Employment Standards (the “Director”). The delegate of the Director determined that Blackwood’s complaint was not filed in the time period permitted by the *Act*. Blackwood alleges that the time period set forth in the *Act* should commence from the date his Record of Employment was issued, not from his last date of employment.

ISSUE TO BE DECIDED

This issue to be decided in this appeal is whether Blackwood’s complaint was filed within the time period set forth in the *Act* ?

FACTS

Blackwood was employed by Raute Wood Ltd. (“Raute”) until November 29, 1996 at which time he was laid off work. Blackwood pursued a grievance through the employee association who ultimately ended up by requesting that the Collective Agreement Arbitration Bureau (“CAAB”) appoint an arbitrator to conduct a hearing. The CAAB advised Blackwood that as there was no collective agreement in force between the employee association and Raute, CAAB did not have jurisdiction to deal with the matter.

Blackwood filed a complaint with the Employment Standards Branch dated June 16, 1997 alleging that Raute owed compensation for length of service.

The delegate of the Director determined that Blackwood’s complaint was not received within the time period provided for under Section 74(3) of the *Act*.

ANALYSIS

Section 74 (3) of the *Act* provides that:

(3) A complaint relating to an employee whose employment has terminated must be delivered under subsection (2) within 6 months after the last day of employment. (Emphasis added)

The evidence clearly indicates that even though the Record of Employment issued to Blackwood was dated January 29, 1997, November 29, 1996 was Blackwood's **last day of employment**. The latest date on which a complaint could have been filed in accordance with the provisions of Section 74(3) of the *Act*, would have been May 28, 1997. Blackwood's complaint was not filed until June 16, 1997, clearly well beyond the time permitted by the *Act*.

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

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination dated July 14, 1997 be confirmed.

Hans Suhr
Adjudicator
Employment Standards Tribunal