

An appeal

- by -

GBL Trucking Ltd.  
("GBL")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act* R.S.B.C. 1996, C.113

**ADJUDICATOR:** M. Gwendolynne Taylor

**FILE No.:** 2001/320

**DATE OF DECISION:** July 30, 2001

## DECISION

### OVERVIEW

Pursuant to section 112 of the *Employment Standards Act* (the “*Act*”), GBL Trucking Ltd. (“GBL”) filed an appeal from a Determination by the Director dated March 29, 2001. The Director found that GBL had contravened section 46 of the *Employment Standards Regulation* (the “*Regulation*”) by failing to produce proper payroll records. The Director ordered GBL to cease contravening and to pay a penalty of \$500.00.

On April 23, 2001, GBL appealed the Determination saying that the individual time sheets had to be retrieved and would be forwarded. GBL asked that the \$500.00 penalty be cancelled. On June 6, 2001, Gurdev Bains provided copies of time sheets.

### ISSUES

1. Did GBL contravene section 46 of the *Regulation*?
2. Does GBL have to pay a penalty of \$500.00 pursuant to section 98(1) of the *Act* and section 28(a) of the *Regulation*?

### FACTS, ARGUMENT AND FINDINGS

The Director received a complaint from Rashinder Mann that GLB had not met some provision of the *Act*. On December 21, 2000, the Director made a Demand for Employer Records, pursuant to section 85 of the *Act*. The Demand required employment records for Rashinder Mann’s employment from December 1998 to the present, including

- all records relating to wages, hours of work, and conditions of employment.
- all records an employer is required to keep pursuant to Part 3 of the *Act* and Part 8, Section 46 and 47 of the *Regulation*.

The documents were to be delivered by noon on Tuesday, January 4, 2001, at the address provided.

GLB’s accountant requested extensions, which the Director granted, to January 12 and 17, 2001. On February 20, 2001, the Director received a statement of payroll record. The Director considered this statement to be incomplete and issued another Demand on March 14. On March 29, 2001, the Director issued the Determination, which included another Demand for complete payroll records, to be provided by April 6, 2001.

The Director opposes GBL's appeal noting that the Demand was clear in stating what was required to be produced, that extensions were granted and the record of daily hours was not produced. The Director's submission is dated May 7, 2001 and indicates that the Director still has not received the records.

I find that the Director made a Demand for Employer Records. The Demand identified the records required and the time and place for delivery. At GBL's request, the Director extended the time for production. GBL did not produce the documents.

GBL did not comply with the Demand. Consequently, I find that GBL contravened section 46 of the *Regulation*.

I find that the Director has the discretion under Section 98 of the *Act* to impose a penalty. There is nothing in the submissions that suggests the Director exercised the discretion improperly. Section 28(a) of the *Regulation* sets the penalty at \$500.00 for this contravention. I find nothing to support the request for cancelling the penalty.

I find that GBL must pay the assessed penalty of \$500.00

## **ORDER**

Pursuant to section 115 of the *Act*, I confirm the Determination issued March March 29, 2001. I ask that the Tribunal Registry forward copies of the documents received from GBL to the Director, if this has not already been done.

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**M. Gwendolynne Taylor**  
**Adjudicator**  
**Employment Standards Tribunal**