

**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 -

U C Timber Ltd.  
("UC Timber")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Hans Suhr

**FILE No.:** 97/532

**DATE OF DECISION:** September 17, 1997

## DECISION

### OVERVIEW

This is an appeal by U C Timber Ltd. (“UC Timber”), under Section 112 of the *Employment Standards Act* (the “Act”), against a Determination dated June 24, 1997, issued by a delegate of the Director of Employment Standards (the “Director”). UC Timber alleges that the delegate of the Director erred in the Determination by concluding that Joseph Kruchowski (“Kruchowski”) was owed wages. The Director’s delegate concluded that Kruchowski was owed wages in the amount of \$441.00 plus interest for a total of \$446.45.

### ISSUE TO BE DECIDED

The issue to be decided in this appeal is whether UC Timber owes wages ?

### FACTS

Kruchowski was employed by UC Timber as a ‘faller’ on March 19 & 20, 1997. The work location was isolated and required employees to be flown in to camp. UC Timber did not feel Kruchowski was capable of performing the work required so he was sent home. Kruchowski was flown to Bella Coola where he had to spend the night before being flown to Vancouver.

UC Timber deducted the cost of Kruchowski’s accommodation in Bella Coola and his flight to Vancouver from his pay.

The delegate of the Director contacted UC Timber by letter dated May 2, 1997 and requested the production of payroll records by May 12, 1997. No records were produced.

The delegate of the Director issued a “Demand for Employer Records” on May 13, 1997 requiring UC Timber to produce the records by 4 p.m. May 28, 1997. No records were produced.

The delegate of the Director issued a Determination dated May 29, 1997 in the amount of \$500.00 penalty for failure to produce records as required.

The delegate of the Director issued a Determination dated June 24, 1997 in the amount of \$446.45 for wages owing based on Kruchowski’s records.

UC Timber states that Kruchowski had agreed to have the charges for the accommodation and flight deducted from his pay. UC Timber further states that the Determination dated May 29, 1997 and the Demand for Employer Records dated May 13, 1997 arrived in their offices on the same date.

## **ANALYSIS**

The issue of what may be deducted from an employee's pay is covered in the provisions of Sections 21 and 22 of the *Act* which state:

### *Section 21, Deductions*

- (1) Except as permitted or required by this Act or any other enactment of British Columbia or Canada, an employer must not, directly or indirectly, withhold, deduct or require payment of all or part of an employee's wages for any purpose.*
- (2) An employer must not require an employee to pay any of the employer's business costs except as permitted by the regulations.*
- (3) Money required to be paid contrary to subsection (2) is deemed to be wages, whether or not the money is paid out of an employee's gratuities, and this Act applies to the recovery of those wages.*

### *Section 22, Assignments*

- (1) An employer must honour an employee's written assignment of wages*
  - (a) to a trade union in accordance with the Labour Relations Code;*
  - (b) to a charitable or other organization, or a pension or superannuation or other plan, if the amounts assigned are deductible for income tax purposes under the Income Tax Act (Canada),*
  - (c) to a person to whom the employee is required under a maintenance order, as defined in the Family Maintenance Enforcement Act, to pay maintenance,*

*(d) to an insurance company for insurance or medical or dental coverage, and*

*(e) for a purpose authorized under subsection (2).*

*(2) The director may authorize an assignment of wages for a purpose that the director considers is for the employee's benefit.*

*(3) An employer must honour an assignment of wages authorized by a collective agreement.*

*(4) An employer may honour an employee's written assignment of wages to meet a credit obligation.*

There was no evidence provided that the cost of the accommodation and flights was a credit obligation or that Kruchowski had provided UC Timber with a **written** assignment to deduct such costs.

The action by UC Timber in deducting the cost of the accommodation and flight from Kruchowski's pay was a contravention of Sections 21 and 22 of the *Act*.

I conclude that UC Timber owes wages to Kruchowski in the amount of \$441.00 plus interest for a total of \$446.45 as calculated by the delegate of the Director and set forth in the Determination dated June 24, 1997.

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

## **ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination dated June 24, 1997 be confirmed in the amount of **\$446.45**.

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