

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 -

Leon Hotel Ltd.
operating as
Quincy's Pub and Bistro
("Company")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Richard S. Longpre
FILE NO.: 97/468
DATE OF HEARING: September 18, 1997
DATE OF DECISION: September 22, 1997

To Whom It May Concern

This letter is to confirm that Robert Evans has been successful in securing employment as of August 30, 1996, at Quincey's [sic] Pub & Bistro. He will be receiving his first pay cheque on September 22, 1996.

Notably, Bruce Evans wrote the letter before commencing work with the Company. The letter was not on the Company's letterhead nor did Bruce Evans set out his own employment title with the Company.

Bruce Evans later explained to Ronald Dormoriz, the bar manager, and to Max Hime, a part time employee at the Pub, the reason he gave his brother the August 29 letter. He wrote the letter in order for his brother to get one more week of welfare assistance. Bruce Evans wrote a letter in January 1997, confirming this point:

To Whom It May Concern

The letter in question [August 29, 1996] was written in the event I got the job at Quincy's Pub. It was written so Robert could get one last support cheque from welfare. Once I got the job I realized the pub could not afford another person on the payroll.

Robert Evans never commenced work with the Company. He filed his complaint with the Employment Standards Branch in September 1996.

ANALYSIS

Bruce Evans wrote the August 29 letter before he started working with the Company. He wrote the August 29 letter before he discussed hiring his brother with Todoruk and being told his brother's hiring was not possible. Further, Bruce Evans told co-workers and later set out in a letter why he had given the August 29 letter to his brother: it had nothing to do with him working at the Pub.

Section 8 of the *Act* reads:

8. An employer must not induce, influence or persuade a person to become an employee, or to work or to be available for work, by misrepresenting

- (a) the availability of a position,
- (b) the type of work,
- (c) the wages, or
- (d) the conditions of employment.

There is no bases to conclude that the Company took any steps to offer employment to Robert Evans. The Company neither induced nor persuaded Robert Evans to take

employment. There was no representation that work was available. Bruce Evans tried to assist his brother in an unrelated matter. The appeal succeeds.

ORDER

Pursuant to Section 115 of the *Act*, the Determination of the Delegate dated May 28, 1997 is cancelled.

Richard S. Longpre
Adjudicator
Employment Standards Tribunal