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 -

Peace Country Livestock Auction Ltd.
("PCLA")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: David B. Stevenson

FILE No.: 2000/158, 2000/182 and 2000/263

DATE OF HEARING: September 15, 2000

DATE OF DECISION: October 26, 2000

DECISION

APPEARANCES:

on behalf of the Appellant	Leslie G. Dellow, Esq. Mike Kosick Kathy Wolsey
on behalf of the individuals	Kerry Miller for Quinton Miller Gordon Wolf Merry Woolsey Ladell Lee Dwain Lee Brett Michaluk
on behalf of the Director	Robert Joyce Debbie Sigurdson

OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the "*Act*") by Peace Country Livestock Auction Ltd. ("PCLA") of three Determinations issued by a delegate of the Director of Employment Standards (the "Director"). The first Determination was issued on February 17, 2000. That Determination concluded that PCLA had contravened Part 4, Section 34 and subsections 40(1) and 40(2) of the *Act* in respect of the employment of twenty-six employees, covering a period from January 1, 1998 to July 31, 1999 and ordered PCLA to cease contravening and to comply with the *Act* and to pay an amount of $51,737.69. The second Determination was issued on February 21, 2000. That Determination concluded that PCLA had contravened 63 of the *Act* in respect of the employment of Mary Woolsey and ordered PCLA to cease contravening and to comply with the *Act* and to pay an amount of $260.57. The third Determination was issued on March 20, 2000. That Determination concluded that PCLA had contravened Part 4, Section 34 and subsections 40(1) and 40(2) of the *Act* in respect of the employment of 16 employees covering a period from August 1, 1999 to December 31, 1999 and ordered PCLA to cease contravening and to comply with the *Act* and to pay an amount of $16,664.80.

At the outset of the appeal hearing, counsel for PCLA advised that the appeal of the second Determination, dated February 21, 2000, would not be advanced.

PCLA challenges the other two Determinations on two grounds: first, that the Director was wrong to conclude the affected employees were not "farm workers" as that term is defined in the *Employment Standards Regulations* (the "*Regulations*"); and second, that the Director was wrong not to give effect to settlements made between PCLA and several of the employees included in the Determination. There were other matters raised in the appeals, challenging the

calculations made by the Director for specific individuals and the entitlement of one employee, Chris Haddow, to be included in the first Determination, but those matters were also not pursued in the appeal hearing.

ISSUES

There are two issues in these appeals. First, whether the employees of PCLA are "farm workers" as that term as defined in the *Regulations*, are excluded from Part 4 of the *Act* under paragraph 34(1)(p) of the *Regulations* and, accordingly, would have their overtime entitlement governed by Section 23 of the *Regulations*. Second, and alternatively, whether the settlement between PCLA and several of their employees should have been given effect.

THE RELEVANT PROVISIONS OF THE *ACT*

Sections 2, 3 and 4 of the *Act* state:

> *2. The purposes of this Act are to*
>
> *(a) ensure that employees in British Columbia receive at least basic standards of compensation and conditions of employment,*
>
> *(b) promote the fair treatment of employees and employers,*
>
> *(c) encourage open communication between employers and their employees,*
>
> *(d) provide fair and efficient procedures for resolving disputes over the application and interpretation of this Act,*
>
> *(e) foster the development of a productive and efficient labour force that can contribute fully to the prosperity of British Columbia, and*
>
> *(f) contribute in assisting employees to meet work and family responsibilities.*
>
> *3. This Act applies to all employees, other than those excluded by regulation, regardless of the number of hours worked.*
>
> *4. The requirements of this Act or the regulations are minimum requirements, and an agreement to waive any of those requirements is of no effect, subject to sections 43, 49, 61 and 69.*

Section 1 of the *Regulations* defines farm worker

> ***"farm worker"** means a person employed in a farming, ranching, orchard or agricultural operation, but does not include*

> *(a) a person employed to process the products of a farming, ranching, orchard or agricultural operation,*
>
> *(b) a landscape gardener or a person employed in a retail nursery, or*
>
> *(c) a person employed in aquaculture;*

Section 34(1) of the *Regulations* identifies employees to whom Part 4 of the *Act* does not apply, including:

> *(p) a farm worker;*

Section 23 of the *Regulations* addresses overtime for farm workers:

> *23. An employer who requires or allows a farm worker to work more than 120 hours within a 2 week period must pay the farm worker for the hours in excess of 120 at least double the regular wage.*

THE FACTS

PCLA is a livestock auction mart in Dawson Creek. It holds approximately 80 auctions a year, averaging one auction a week for most of the year, two auctions a week during the "fall run", which is the busiest time period for the auction mart, and several special auctions. Most of the livestock that passes through the auction mart, about 80% of the 50,000 or so head a year, is cattle. Other livestock includes horses, sheep, bison and some hogs and poultry. Only 15 - 20% of the livestock sold through the auction mart is delivered to slaughter houses. PCLA also does a small amount of business, selling tack and feed, that is not directly related to auctioning livestock.

The auction process involved in an average "fall run" auction was described in detail by Mike Kosick, the President and one of the owners of PCLA. The livestock is received at the back of the auction mart before the auction day, the paperwork is exchanged, the animals are inspected on arrival by persons not employed by PCLA, they are sorted and penned. From the time the animals arrive until they are sold and loaded out, anywhere from 24 to 72 hours, they are fed and watered. PCLA will provide "health packages" on request from the consignor. A typical auction day starts at about 7:00 am and does not end until 8:00 pm for most and later for some. On auction day, the animals will be moved, by lots, from the pens to the sales arena. As each sale is made, the transaction is recorded and concluded at the office. The livestock is removed from the sales arena to the penning area, where they are loaded out.

The pens have to be cleaned. The waste is stockpiled and from time to time trucked out to area farms and ranches where it is used as fertilizer.

Mr. Kosick gave evidence indicating that some of the same tasks and processes that take place at the auction mart occur in ranching and farming operations.

The affected employees were employed in various designations at the auction mart, such as receiver, handler, sorter, penner and clerk, but for the most part, as the Determinations noted, they were either labourers or office staff.

The Director received several complaints from employees of PCLA in January and February, 1999. As a result of information received while investigating those complaints, the Director decided to conduct an investigation under subsection 76(3) of the *Act*. That investigation covered a period from January 1, 1998 to July 31, 1999. In late November 1999, the Director sent a list to Kathy Wolsey, the Office Manager for PCLA, showing the amounts determined to be owing to each of the employees covered by the investigation. On December 2, 1999, the Director notified PCLA that further adjustments would be made to the list to cover the period August 1, 1999 to December, 1999. No calculation of the amounts owing for this period were provided to PCLA until January, 2000.

By mid-December, Mrs. Wolsey had formed the impression that she could deal directly with each employee to settle their individual wages, and by December 16, 1999 a release form had been drawn up for most, if not all, of the employees on the Director's list who were still employed by PCLA. On that day, Mrs. Wolsey called many of those employees into her office, one at a time, explained the situation to them and offered them a sum of money in exchange for their signatures on a form of release. Money has been paid out to most of the employees who signed a release form.

The Director gave no effect to the releases, indicating that the circumstances in which they were signed and the lack of knowledge on the part of the employees of their entitlement under the *Act* justified a conclusion the releases were contrary to Section 4 of the *Act*. The decision of the Director was influenced by the following information set out in the Determinations:

> . . . some of the employees who had signed the employer prepared release form advised that they recall signing something but they were not sure if there was a dollar amount on it when they signed it. Others state they didn't read it, they just signed it and were told those amount were all that were owed for overtime. They stated that the employer brought some employees into the office at the auction mart during a staff "Christmas" party, where alcohol was being consumed, to sign the release forms in front of them.

ARGUMENT AND ANALYSIS

The analysis by the Director in the Determination expressed the view that exceptions to the minimum standards of the *Act* must be read narrowly and that a strict interpretation of provisions that derogate from minimum standards is consistent with the remedial nature of the *Act* and its purposes. In that regard, reference is made to Section 8 of the *Interpretation Act*, RSBC 1996, ch. 238 and to the Court's comments in *Re Health Labour Relations Association of British Columbia et al and Prins et al*, (1982) 140 D.L.R. (3rd) 744 (BCSC) at p. 748, that:

> It would take the clearest of kind of language to exclude the right of any citizen to the direct remedy furnished by this [the *Act*] legislation.

The Determination also referred to the comments from the Supreme Court of Canada in *Re Rizzo & Rizzo Shoes Ltd.*, [1998] 1 S.C.R. 27, as setting out the correct approach to interpretive issues under the *Act*:

> Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament. (para. 21)

The Determination also noted the comment from *Machtinger v. HOJ Industries Ltd.*, (1992) 91 D.L.R. (4th) 491; [1992] 1 S.C.R 986, at p. 1003, that:

> . . . an interpretation of the Act which . . . extends its protection to as many employees as possible is favoured over one that does not.

Applying those principles and directions to the circumstances, the director concluded that the affected employees were not farm workers for the purposes of the *Act*.

Counsel for PCLA, of course, disagreed with that conclusion. He noted that a farm worker in the *Regulations* is a person employed in a *"ranching, farming, orchard or agricultural operation"* that is not otherwise excluded under paragraphs *(a)*, *(b)* or *(c)* of the definition. He argued this ground of appeal from the perspective that PCLA is a ranching and/or agricultural operation. That argument was largely based on the evidence that many of the functions, tasks and duties that are performed at PCLA, often by the affected employees, are the same or similar to functions, tasks and duties performed on ranching or in agricultural operations. He pointed to several facts and factors in support:

- PCLA receives about 50,000 animals at the auction mart annually; approximately 80% of the animals received by PCLA are cattle, 15% more are horses and 3% are sheep;
- PCLA operates in an area where ranching is a significant economic activity;
- PCLA does not, in the normal course, acquire any ownership rights in any animal; it acts as the agent for the owner of the animal, who is normally a farmer or rancher;
- the majority of animals sold through the auction mart are bought by ranchers and feed lot operators; only 15 to 20% are sold to slaughterhouses.
- PCLA prefers to employ persons with some ranching experience (although it was Mr. Kosick's evidence in this regard that, while it might be their preference, very few of the people who applied and were hired to work at PCLA had any such experience and that the principal requirements are some common sense and ambition);
- selling livestock, which is the primary function of PCLA, is a normal and necessary part of a ranching operation and some ranchers sell their livestock privately in much the same way as it is sold at PCLA;

- the main functions required to be performed by employees of PCLA while the livestock is at the auction mart, penning, herding, feeding, watering and cleaning are typical of those that occur in a ranching operation;

- some of the services provided at the auction mart by PCLA to consignors, such as tagging, vaccinating, preg testing, de-horning and branding are also services that might be offered and performed by a rancher at a private sale.

Notwithstanding the eloquent and comprehensive argument of counsel for PCLA, I do not accept that PCLA is either a ranching operation or an agricultural operation as those terms are used in the definition of farm worker in the *Regulations*.

The definition of farm worker in the *Regulations* identifies a person who is excluded from the basic standards of compensation and conditions of employment found in Part 4 of the *Act* by paragraph 34(1)(p) of the *Regulations*. Part 4 establishes, *inter alia*, minimum standards for hours of work and overtime and Section 34 of the *Regulations* derogates from those minimum standards. When interpreting the *Act* and *Regulations*, the Tribunal has been guided by the comments of the Court in *Re Rizzo & Rizzo Shoes Ltd.*, *supra*, which are set out in the Determination and above in this decision. As the Determination noted, and I agree, provisions that derogate from the minimum standards of the *Act* should be strictly construed because they are inconsistent with the remedial nature of the *Act* and with its stated objects and purposes (see also the comments from *Machtinger v. HOJ Industries Ltd.*, *supra*, above).

In his argument, counsel for PCLA offered the following dictionary definitions (from *Webster's New Collegiate Dictionary*) for "agriculture"and "agricultural":

> "**agriculture** \ n. the science or art of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation of these products for man's use and their disposal (as by marketing)".
>
> "**agricultural** \ a. of, relating to, used in, or connected with agriculture".

I add the definition of "agriculture" from *Webster's Revised Unabridged Dictionary* which states:

> agriculture \Ag"ri*cul'ture\ (?; 135), n. [L. agricultura; ager field + cultura cultivation: cf. F. agriculture.] The art or science of cultivating the ground, including the harvesting of crops, and the rearing and management of live stock; tillage; husbandry; farming.

What I note from the above definition is the absence of any reference to the preparation and disposal of the products of agriculture that is found in the other definition and I will return later to this point. I also note that "ranching" is described in *Webster's New Collegiate Dictionary*, and in other dictionaries, simply as "raising livestock". All of those definitions provide some guidance in determining the usual or common meaning of the words used in the definition of farm worker. While there are some differences in the definitions, they are all consistent in identifying the meaning of the words "agriculture" and "ranching" with certain core activity -

"cultivating the soil (ground), producing and harvesting crops and raising (rearing and management of) livestock".

Counsel for PCLA does not suggest his client is in any way engaged in cultivating the soil or in raising crops, but contends that PCLA is engaged in raising and marketing livestock. Counsel contends PCLA is engaged in the former activity because it provides "care", in the form of food, water and, on request, health services, for the animals during the 24 to 72 hour period they are at the auction mart. I disagree with that contention.

PCLA is in the business of selling livestock. There was no evidence showing any relationship between the activity of selling livestock and the core activities involved in agriculture and ranching. To put it another way, there is no evidence that the care given to the animals at the auction mart is related in any way to the activity of "raising (rearing and management of) livestock". The care given to the livestock at the auction mart is directly and, from the evidence, exclusively related to selling the animals. As Mr. Kosick indicated, it is PCLA's obligation, as the agent of the owner for the purpose (the *sole* purpose, in my view) of selling the livestock consigned to them, to preserve the health of the animal during the sale.

Counsel also contends that PCLA is a ranching and/or agricultural operation because of its involvement in the "disposal (as by marketing)" of the livestock. In my view, the definition of farm worker was not intended to include persons employed to sell or market the products of a *"farming, ranching, orchard or agricultural operation"*. It would take much clearer language in the *Act* and *Regulations* to compel that conclusion. As a general observation, it is not apparent that there are factors inherent in the work performed by employees engaged in selling or marketing agricultural products that would require their exclusion from the minimum standards of Part 4 of the *Act*. Typically, the work performed by employees excluded under Section 34 of the *Regulations* has unusual or unique features that do not justify, as a matter of public policy and fairness, compelling compliance with the hours of work and overtime requirements in Part 4 of the *Act*.

There is, however, nothing inherent in the work performed at the auction mart that has characteristics consistent with the rationale for exclusion from the requirements of Part 4. There is little, if anything, that separates the auction mart from a conventional work setting. The work takes place at a single location. There was no evidence that the work was affected by factors beyond the control of PCLA. In his evidence, Mr. Kosick described a routine and a regularity in the work done at the auction mart by the affected employees. For the most part, the employees do the same work from day to day and week to week. Except on auction day, there is a regular complement of two or three employees, depending on the time of year, who perform regular maintenance and repair, cleaning and, when animals are on the premises, feeding and watering. There are two persons employed almost steady in the office doing regular administrative and clerical work. No concern was expressed with being able to avoid the hours of work and overtime provisions on any days other than the auction days. The amount of work increases during the busy "fall run", but there was no indication from the evidence that the routine varied. In fact, the evidence indicated that even on the busy days during the "fall run", the routine is regular and predictable.

The concern expressed by PCLA focussed on the auction days. Mr. Kosick expressed the opinion that it would be "impossible" to schedule the staffing requirements on auction days to eliminate or minimize the number of daily overtime hours for any particular employee. I do not accept that opinion. There was nothing in the evidence that qualified Mr. Kosick to give such an opinion. As well, it was apparent that PCLA had never attempted any such scheduling, as Mr. Kosick has run the business on the basis that employees were not entitled to overtime pay, so there was no empirical foundation for such an opinion. At best, from the position of PCLA, setting regular work schedules for auction days may result in some inconvenience, but mere inconvenience to PCLA in organizing its workforce on auction days does not justify a conclusion that an exclusion of its employees from the minimum standards in Part 4 of the *Act* is consistent with the basis upon which other employees, and specifically farm workers, are excluded.

Even accepting, for the sake of argument, that the term *"ranching . . . or agricultural operation"* includes the selling or marketing of the products of a *"ranching . . . or agricultural operation"*, there remain two problems with the argument that carrying on this activity is sufficient support an exclusion of the affected employees from Part 4 of the *Act*. The first is that the definition of farm worker in the *Regulations* excludes *"a person employed to process the products of a ranching . . . or agricultural operation"*. Keeping in mind the words of the Court in *Machtinger v. HOJ Industries Ltd., supra*, that an interpretation of the *Act* that extends its protection to as many employees as possible is favoured over one that does not, it is probable that the term *"process"* would be read sufficiently broadly to include the employees of PCLA. The second problem is that I do not accept that the "preparation" and "disposal (as by marketing)" can stand as separate and distinct "agricultural" activities. They are only included in the dictionary definition of "agriculture", and could only be included in the term "*ranching . . . or agricultural operation"* in the *Regulations*, where they are carried on in conjunction with the principal activities that define agriculture, which are "cultivating . . . producing . . . and raising . . .". Accordingly, counsel's argument respecting PCLA's involvement in the marketing of livestock also requires a conclusion that PCLA is a core activity of agriculture and/or ranching, *ie.*, "raising" the livestock it is marketing, and I have rejected that suggestion.

In reaching the conclusion that PCLA is not a *"ranching . . . or agricultural operation"* , I have also considered the words of the Court in *Re Rizzo & Rizzo Shoes Ltd., supra*, that any doubt arising from difficulties in the language, in this case whether the term *"a person employed in a ranching . . . or agricultural operation"* should be read to include a person employed by an employer whose business is auctioning livestock, should be resolved in favour of the employees:

> Finally, with regard to the scheme of the legislation, since the ESA is a mechanism for providing minimum benefits and standards to protect the interests of employees, it can be characterized as benefits - conferring legislation. As such, according to several decisions of this Court, it ought to be interpreted in a broad and generous manner. Any doubt arising from difficulties of language should be resolved in favour of the claimant (see, e.g., *Abrahams v. Attorney-General of Canada*, [1983] 1 S.C.R. 2 at p. 10, 142 D.L.R. (3d) 1; *Hills v. Canada (Attorney General)*, [1988] 1 S.C.R. 513 at p. 537, 48 D.L.R. (4th) 193).

It follows that I do not accept the affected employees are *"farm workers"* for the purposes of the *Act* and that aspect of the appeal is dismissed.

Turning to the second issue, the operative words of the release forms read:

> I . . . do hereby demise, release, and forever discharge PEACE COUNTRY LIVESTOCK LTD. . . . of and from all manner of actions, causes of action, suits, covenants, claims and demands whatsoever due us pursuant to the *[Act]*, and any other action that I may have by reason of my employment . . .

I agree entirely with the Director that, for the purposes of the *Act*, no effect can be given to the release forms signed by some of the affected employees.

Based on my reading of the Determinations, however, I do part company with the position of the Director on one point, which seems to suggest there may be circumstances where an agreement to waive the minimum requirements of the *Act* will be given effect. That suggestion is carried through in the argument made on behalf of PCLA, where it is inferred that in the absence of evidence of duress or undue influence the release forms should given effect.

In fact, Section 4 of the *Act* is clear, explicit and contains no wording which would allow an agreement, unless it relates to a matter arising in Section 43, 49, 61 or 69[1], to have effect or not have effect depending on the circumstances in which such agreement was made. Simply put, Section 4 says an agreement to waive the minimum requirements of the *Act* has no effect. There is nothing conditional in that provision and it applies regardless of the circumstances.

It may be that I have misinterpreted the Determinations in this regard and the suggestion I have referred to does no more indicate the Director was not prepared to consider that the releases should be accepted as a settlement of the claims. In *Re Takarabe*, BC EST #D160/98, the Tribunal did recognize that while the primary statutory obligation of the Director is to ensure and enforce compliance with the requirements of the *Act*, she also retains a discretion, found in Section 78(1)(a) of the *Act*, to assist in settling a complaint:

> When the provisions of Section 4 are read together with the discretionary powers given to the Director under Section 78(1)(a), it is our view that Section 4 should not be interpreted to limit the proper exercise of the Director's discretionary power to assist in settling a complaint. Nothing in our analysis should be construed as placing limits on the circumstances under which the Director may assist in settling complaints. Further, our analysis should not be taken to support the proposition that the Director must, in all cases, press for enforcement of 100% of statutory entitlements. The Director may assist in bringing about a settlement which provides for entitlements that are less that those proscribed by the Act. However, in our view, the discretionary authority given to the Director to assist in settling complaints does not amount to an authority to impose a settlement without consultation or over the objection of the parties to the dispute. Moreover, if the Director's assistance does not bring about a settlement and she issues a

[1]There is no collective agreement involved in this case and the comments which follow are made in that context.

> determination, she cannot issue a determination which provides for less than the statutory minimum standards.

It is not inconsistent with the above statement or with the provisions of the *Act*, its objects and purposes to accept that encouraging an employer and an employee to settle a claim arising under the *Act* and giving effect to that settlement is an aspect of the Director's discretion. Having said that, however, the Director is not bound to give effect to such a settlement. That decision is also a matter of discretion and must be made in a manner consistent with the provisions, objects and purposes of the *Act*. The statute imposes a positive duty on the Director to investigate and decide a complaint made under the *Act*. The discretion given to the Director under Section 78(1)(a) to assist in settling claims must be exercised in the context of that duty and would include, among other things, a responsibility to ensure any settlement achieved is a fair, reasonable, voluntary and, from the perspective of both employer and employee, informed resolution of a complaint.

The Determinations and the material on file indicate that the circumstances in which the purported settlement was made raised legitimate concerns with the Director about whether it was voluntary or was a fair, reasonable and informed decision on the part of the signatory employees. I see nothing wrong, in the circumstances, with the Director refusing to accept that the claims had been settled or that her statutory duty to investigate and decide had been satisfied.

Finally, counsel for PCLA argued that the release forms were not, in any event, agreements to waive the requirements of the *Act*, but rather were agreements to compromise a disputed legal issue, which was whether the affected employees were "farm workers". He submitted that such an agreement stands on a different footing than those which purport to waive clear and certain entitlement under the *Act*. No authority for that proposition was provided to me and, for much the same reasons as given above, I find no merit in the argument.

In the same vein, counsel argued that the term "waive" in of Section 4, "should be limited to a protective waiver of known requirements of the *Act*" but should "not include settlement of claims, the legal foundation of which is uncertain". In my view, such an interpretation would be absurd and should be avoided. In *Re Rizzo & Rizzo Shoes Ltd.*, *supra*, the Court stated:

> It is a well established principle of statutory interpretation that the legislature does not intend to produce absurd consequences. According to *Côté*, *supra*, an interpretation can be considered absurd if it leads to ridiculous or frivolous consequences, if it is extremely unreasonable or inequitable, if it is illogical or incoherent, or it is incompatible with other provisions or with the object of the legislative enactment (at pp. 378-80). Sullivan echoes these comments noting that a label of absurdity can be attached to interpretations which defeat the purpose of a statute or render some aspect of it pointless or futile (Sullivan, *Construction of Statutes*, *supra*, at p. 88).

In effect, the interpretation offered by counsel for PCLA would allow agreements to waive the minimum requirements of the statute in any matter that involved an interpretive, or legal, issue under the *Act*, but not otherwise: for example, an agreement that an employee under the *Act* was not entitled to overtime would have no effect, but an agreement that the employee was not an employee under the *Act* would have effect. The result in both cases, however, is the same,

employees lose the minimum employment rights found in the *Act*. I do not accept that the legislature intended Section 4 should be read in such a way and there is nothing in the language that would support such a conclusion. In *433428 B.C. Ltd. v. British Columbia (Director of Employment Standards)*, [1996] B.C.J. No. 1173, the Court, referring to *Re Health Labour Relations Association of British Columbia et al and Prins et al*, *supra*, stated:

> . . . this case supports the proposition that in order for the numbered company to be successful on this appeal, it must show that the Act sets forth in the clearest language the right of an employer and an employee to enter into an agreement *the effect of which* is to exclude the statutory protection for the employees set forth in s. 2(1) [now Section 4].
> (emphasis added)

I am also supported in my response to this issue by the fact that at all relevant times PCLA had a positive statutory obligation to comply with the requirements of the *Act* in respect of its employees. In that respect, specific regard should be given to Section 3, which says the *Act* applies to all employees, unless excluded by the *Regulations*. No determination had ever been made indicating PCLA's employees were excluded from Part 4. The *Act* is broadly based benefits - conferring legislation, providing employees with basic standards of compensation and conditions of employment. A key purpose of the *Act* is to *"ensure that employees in British Columbia receive at least basic standards of compensation and conditions of employment"*. The objective of Section 4 of the *Act* is to ensure that purpose is not avoided, nullified or defeated by any agreement that has the result of compromising the requirements of the *Act*.

For the above reasons, the appeal is dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determinations, dated February 17, 2000 in the amount of $51,737.69, dated February 21, 2000 in the amount of $260.57 and dated March 20, 2000 in the amount of $16,664.80, be confirmed, together with any interest that has accrued pursuant to Section 88 of the *Act*.

David B. Stevenson

David B. Stevenson
Adjudicator
Employment Standards Tribunal