BC EST #D475/99

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 -

Seehra & Sons Contractors Ltd., (the "Employer")

- of a Determination issued by -

The Director Of Employment Standards (the "Director")

ADJUDICATOR:	Richard S. Longpre
FILE NO.:	1999/526
DATE OF DECISION:	October 25, 1999

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DECISION

WRITTEN SUBMISSION

Harbinder S. Seehra	on behalf of Seehra & Sons Contractors Ltd.
J. V. Walton	on behalf of the Director

OVERVIEW

This is an appeal filed by the Employer pursuant to Section 112 of the *Employment Standards Act*. On August 4, 1999 the delegate of the Director issued a Determination (File No. 95242) in which the Employer, a labour contractor, was found to have breached Section 6(1)(d) of the *Employment Standards Regulations*: the Employer failed to "display prominently at the work site where the work is to be performed ... the wages the farm labour contractor is paying to employees." The Determination did not issue a penalty. The Determination stated that a further contravention of the *Regulations* would result in a penalty of \$150 per person.

The Employer disagreed with the finding of facts reached in the Determination. The Employer requests that the Determination be overturned.

FACTS

The Determination sets out the background to its conclusion:

On July 23, 1999 the Agricultural Compliance Team conducted a site visit at Krause Bros. Farms located on 6179 248th Street in Aldergrove. At the time, Seehra & Sons Contractors Ltd. had transported workers to Krause Bros. Farms to harvest raspberries. Interviews conducted with workers revealed that some employees were not aware of the wage rate they were receiving. This contravenes section 6(1)d of the Employment Standards Regulations which states that a farm labour contractor must display at the work site the wages being paid to the employees.

The delegate found the Employer failed to comply with the *Regulations*.

In its appeal, the Employer says that it had posted the wages paid "inside each vehicle in the start of the season." It says that the persons who did not know the wage rates "were persons who came to work for the first time that day." The Employer submitted a document signed by a number of employees acknowledging that they knew the wages that the Employer paid. The Employer argued that the *Regulations* had been met.

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On September 7, 1999, the delegate responded to the Employer's appeal submission. He pointed out that the interviews of the Employer's 35 employees showed that 8 employees did not know the rate they were being paid. The delegate's submission reads:

The wage rate was not observed to be posted at the work site nor did the appellant indicate that it was.

ANALYSIS

The Employer argued that the facts remained in dispute. With respect, the evidence that is relevant to this case is not in dispute. The Employer may have displayed wage rates in the vehicle used to transport its crew to the work site. The Employer, however, does not suggest that he complied with the clear statement in Section 6(1)(d) of the *Regulations*. The Employer failed to display prominently at the work site the wages that were being paid. The failure to display the wages at the work site was a clear breach of the *Regulations*. The delegate considered the breach of the *Regulations* and did not issue a penalty.

ORDER

Pursuant to Section 115 of the *Employment Standards Act*, the Determination, dated August 4, 1999, (File No. 95242) is confirmed.

Richard S. Longpre Adjudicator Employment Standards Tribunal