

**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 -

Perfect Auto Ltd.  
("Perfect" or the "Employer")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Ib S. Petersen  
**FILE NO.:** 98/487  
**DATE OF HEARING:** September 23, 1998  
**DATE OF DECISION:** October 16, 1998

**DECISION**

**APPEARANCES**

Mr. Harvinder Sandhu                      on behalf of Perfect  
Mr. Gursewak Chahal                      on behalf of himself

**OVERVIEW**

This is an appeal by the Employer pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against a Determination of the Director of Employment Standards (the “Director”) issued on June 30, 1998 which determined that Perfect was liable for unauthorized deductions from Gursewak Chahal’s (the “Employee” or the “Complainant”) wages. The Director’s delegate found that the Employer had contravened Section 21 of the *Act* and that Chahal was owed \$892.89. Briefly, his findings may be summarized as follows. Perfect operates an auto repair shop and employed Chahal as a mechanic. When Chahal quit, the Employer deducted – and this is not in dispute – \$860.00 from his final pay cheque on account of three unpaid customer accounts. The Employer claimed that the customers were Chahal’s friends and that they had paid him directly, and that Chahal had told him to deduct the amount from his wages. Chahal denied this.

**FACTS AND ANALYSIS**

The appellant bears the onus of proving that the determination should be set aside. For the reasons set out, I am not persuaded that the Determination should be set aside.

Section 21(1) of the *Act* proscribes unauthorized deductions from wages and reads:

- 21. (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 the employee 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.

In this case there was no dispute that the Employer had deducted the amount. The deduction is in contravention of Section 21(1). There was, in any event, no evidence that Chahal had been paid by the customers (in which case the Employer might have recourse to the civil and criminal remedies). Sandhu’s opinion to that effect is not evidence. Chahal denied being paid directly and one of the customers who appeared as a witness on his behalf, similarly denied paying him.

If, as the Employer says, the deduction was on account of unpaid customer accounts, the Employer is in contravention of Section 21(2) as well. Sandhu explained that the accounts were for work

done by Perfect. The accounts were rendered by Perfect. Sandhu felt that Chahal was responsible for the payment of the accounts because the customers were his friends and he had released the keys to them before obtaining payment. I have some sympathy for the Employer. Nevertheless, under the *Act*, an employer is not generally permitted to pass on the cost of doing business to its employees.

Finally, the Employer argues that Chahal verbally authorized the deduction. A witness called by the employer agreed that he had over-heard Sandhu and Chahal agree that the Employer could deduct the amount from his final pay cheque. Even if I accept this testimony, and accept that Chahal had agreed to take responsibility for the unpaid accounts, such an authorization does not constitute a “written assignment” to meet a credit obligation (Section 22(4)). Chahal agrees that he knew the customers but he denied being responsible for their accounts with the Employer.

In the result, the appeal must fail.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination in this matter, dated June 30, 1998 be confirmed in the amount of \$829.89 together with such interest as may have accrued, pursuant to Section 88 of the *Act* since the date of issuance.

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**Ib Skov Petersen**  
**Adjudicator**  
**Employment Standards Tribunal**