

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-

Lloyds Travel & Cruises Ltd.
(the Employer)

-of a Determination issued by-

The Director of Employment Standards
(the Director)

Adjudicator: Hugh R. Jamieson

File No: 1999/462

Date of Hearing: October 26, 1999

Date of Decision: November 03, 1999

DECISION

APPEARANCES

Mr. Bruce Fougner for the Employer

No one appeared for the Employee

No one appeared for the Director

OVERVIEW

This decision deals with an appeal against a Determination issued by the Director on June 30, 1999, wherein it was found that the Employer owed \$480.94 to Ms. Geraldine Williams (the Employee), being compensation for length of service plus vacation pay and interest. The grounds for the appeal which is dated July 20, 1999, is the Employer's contention that the Employee quit her job therefore, the Director erred in finding that compensation for length of service was due.

ISSUE TO BE DECIDED

The sole issue here is whether the Employee quit her job.

FACTS

The finding of facts are set out in the Determination as follows:

“ Williams was employed as a permanent full-time travel counsellor by Centennial Travel Services from October 28, 1997 to August 31, 1998. Her monthly salary was \$1900.00. On September 1, 1998, Centennial Travel was sold to Lloyds Travel & Cruises Ltd. Williams continued to be employed there.

During the latter part of August and the first week in September, the Employee found out that there would be changes to her job. The changes to her commission structure and her hours of work made her feel uneasy and insecure in her job. She tried to establish a process of verifying and negotiating the new terms and conditions of employment with the Lloyds Travel by sending two letters and requesting meetings. On reading her second letter dated September 9, 1998, Williams was advised that Lloyds Travel could not meet her expectations and that there was no job for her there.”

At the hearing, Mr. Bruce Fougner, Vice President of the Employer related his version of the circumstances surrounding his allegations that the Employee walked out and quit her job. Mr. Fougner said that when he took over Centennial there was a deficit on the books therefore, he had to make adjustments to the commissions paid to the counsellors as one step to turn the financial situation around. According to Mr. Fougner, this would not have had a negative impact on staff salaries and also, that the changes were not to be implemented until the New Year.

In any event, the Employee took exception to the proposed changes and Mr. Fougner says that he received two letters from her setting out her demands. Around September 8 or 9, 1998, a meeting was held with the Employee to discuss her demands. The result was that Mr. Fougner told the Employee that he could not possibly meet her demands. He says at that point the Employee became quite beligerent, storming around the office picking up things and emptying her desk. When asked about the wages owed to her, the Employee allegedly made comments to the effect that as far as she was concerned she had never worked for the Employer and that she did not want any money from them. Mr. Fougner said that the Employee gave him her office keys when she stormed out.

As indicated, the Employee did not appear at the hearing. However, in her written submissions in response to the appeal, the Employee was adamant that she did not quit. She insists that she was told by Mr. Fougner that there was no job for her. I questioned Mr. Fougner at length on this point but he stood his ground, maintaining that he had uttered nothing that could even have been construed as meaning that he was dismissing the Employee. In fact, he insists that the Employee was an integral part of his plans for developing this new business acquisition and that there was definitely no intention of letting her go.

ANALYSIS

In light of the uncontested evidence adduced by Mr. Fougner at the hearing, I see little option but to accept his version of the facts as being the most likely to have occurred in the balance of probabilities. Consequently, I must find that the Employee did indeed quit her job with the Employer on or about September 9, 1999. The appeal is allowed accordingly.

ORDER

Pursuant to Section 115 of the *Employment Standards Act*, the Determination in question is hereby cancelled.

Hugh R. Jamieson
Adjudicator
Employment Standards Tribunal