

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 -

Masoud Selseleh
(“ Selseleh ”)

- of a Determination issued by -

The Director of Employment Standards
(the “Director”)

ADJUDICATOR: Norma Edelman

FILE NO.: 2000/550

DATE OF HEARING: November 17, 2000

DATE OF DECISION: November 30, 2000

DECISION

ANALYSIS

This is an appeal by Masoud Selseleh (“Selseleh”) under Section 112 of the Employment Standards Act (the “Act”) against a Determination which was issued by a delegate of the Director of Employment Standards on July 17, 2000.

The delegate determined that Imperial Security and Protection Services Ltd. (“Imperial”) did not owe any wages to Selseleh.

Selseleh appealed the Determination claiming that he was owed additional wages by Imperial.

The Tribunal scheduled a hearing for this appeal to take place on November 17, 2000 at 9:00 a.m. at its offices in Vancouver. Although duly notified of the time and the place of the hearing, Selseleh did not attend and offered no explanation for his failure to attend. Bob Shoker (“Shoker”), Operations Manager, attended the hearing on behalf of Imperial. The delegate advised the Tribunal on October 25, 2000 that she would not be attending the hearing as she was scheduled to be on annual vacation on that day.

The onus in this appeal is on the Appellant, Selseleh, to show that the Determination is in error. The Hearing Notice sent to the parties advised them that if the Appellant failed to attend the hearing, the Tribunal would consider the appeal to be abandoned.

The delegate found that Selseleh worked 17.5 hours during the period December 6 to December 8 and that he was paid in full by Imperial. The written submission of Imperial dated August 22, 2000, which included a statement from its Office Manager and records of hours worked by staff in December, and the oral evidence of Shoker supports the delegate’s conclusion. In his appeal, Selseleh claims he worked 42 hours (7 hours per day times 6 days) during the period December 3 to December 10. The only document submitted on his behalf is a copy of his site schedule which was neither approved nor submitted to Imperial as required by the Company. Moreover, the site schedule does not indicate what hours Selseleh worked on December 3 and it shows he worked a 7 and one-half hour shift on December 10 and not a 7 hour shift.

Given the foregoing and in the absence of any oral evidence provided by Selseleh I am unable to find sufficient grounds on which to cancel or vary the Determination.

Order

Pursuant to Section 115 of the Act I order that the Determination dated July 17, 2000 be confirmed.

Norma Edelman

Norma Edelman

Vice-Chair

Employment Standards Tribunal