

**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 -

Coastline Cleaning Services Ltd.  
(the Employer)

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Hugh R. Jamieson

**FILE No:** 1999/438

**DATE OF DECISION:** December 22, 1999

## DECISION

### OVERVIEW

This decision deals solely with the final calculation of the amount of wages owing to Mr. Bradley Morrice (the Employee). This matter first came to the Tribunal by way of appeal on July 12, 1999, when the Employer disputed the finding by the Director that the amount of \$928.16 was owing to the Employee. This included commissions, compensation for length of service, vacation pay and, reimbursement for an unlawful deduction from the Employee's wages related to the use of a cell phone. The appeal was dealt with in Tribunal decision BC EST# 412/99.

The core issue then was the lawfulness of a deduction made from the Employee's wages for the use of a cell phone. There was also an issue of a miscalculation by the Director which was not really in dispute.

In BC EST# D412/99, which is dated October 4, 1999, I agreed with the Director's finding that the deduction for the Employee's use of the cell phone was indeed unlawful. Moreover, it was revealed in the payroll records provided by the Employer in the appeal process that there had been more than one such deduction made from the Employee's wages for cell phone use. These other deductions were also found to have been unlawful and the matter was referred back to the Director for recalculation of the amount of wages due to the Employee.

This referral back to the Director was framed in BC EST# D412/99 as follows:

“ Pursuant to Section 115 of the *Act*, the Determination dated June 17, 1999, is hereby referred back to the Director for recalculation of the amount due to the Employee. This will include any commissions and vacation pay owing, compensation for length of service, all of the monies deducted from the Employee's wages related to the usage of the cell phone and any interest accruing. The Director shall of course take into account the amount of \$369.09 paid by the Employer, that was omitted from the original calculations.”

### NEW FACTS

On November 1, 1999, the Director returned this matter to the Tribunal indicating that the above order had been complied with and that the recalculation showed that wages in the amount of \$962.45 are owing to the Employee.

The Employer had apparently been notified by the Director of this new amount, along with a detailed break down of the calculations, by letter dated October 14, 1999. This letter provided the Employer with the opportunity to dispute the amount owing by October 29, 1999. The Employer did not respond. Accordingly, I accept the amount found due by the Director as being correct.

**ORDER**

Pursuant to Section 115 of the *Employment Standards Act (the Act)*, and further to Decision No. BC EST# D412/99, the original Determination dated June 17, 1999, is hereby varied to show that the Employer owes wages in the amount of \$962.45 to the Employee, plus any interest accruing pursuant to Section 88 of *the Act*.

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**Hugh R. Jamieson**  
**Adjudicator**  
**Employment Standards Tribunal**