

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 -

Darren M. Lapp
("Lapp" or the "Employee")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Ib S. Petersen

FILE NO.: 98/649

DATE OF DECISION: December 14, 1998

DECISION

SUBMISSIONS

Mr. Randy Appleton	on behalf of the Employer
Mr. Darren Lapp	on behalf of himself
Mr. A.H. Brulotte	on behalf of the Director

FACTS AND ANALYSIS

This is an appeal by the Employee pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against a Determination of the Director of Employment Standards (the “Director”) issued on September 30, 1998 which determined that Lapp was not owed any amount by Comfor Forestry Services Ltd. (“Comfor” or the “Employer”), his former employer. In his complaint he sought \$1,500 on account of regular wages for the period September 1 to 12, 1997.

Using the hours of work submitted by the Employee, and agreed to by the Employer, as well as income tax records which show Lapp’s employment income (\$22,896.22), the delegate determined that no wages were owing. In fact, he was over paid by \$153.68. Lapp seems to suggest that the T-4 is incorrect. However, as I understand it from the pay slips submitted by Lapp, he was paid \$1,500 semi-monthly. The Employer paid him \$1,079 net. The Employer submitted the cancelled cheques for the amount paid. The balance of \$420.72 semi-monthly were withheld by the Employer for taxes, UI And CPP. In any event, in his reply to the delegate’s submission, Lapp agrees with the delegate’s calculations.

He then--in his reply--raises the issue that he is entitled to 8% on account vacation pay. The Determination indicates that delegate took vacation pay into account in his calculation, based on 4%. This claim is based on his allegation that “almost all” other office employees of the Employer were entitled to 20 working days or 8%, that this was the “standard contract”. There is nothing before me to support the claim for vacation pay. In my view, other employees’ contractual entitlements are irrelevant. What is relevant is Lapp’s entitlement, either under the statute or the employment contract.

In the result, the appeal must fail.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination in this matter, dated September 30, 1998 be confirmed.

Ib Skov Petersen
Adjudicator
Employment Standards Tribunal