

An appeal

- by -

Stuart M.J.Marsh  
("Marsh")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act* R.S.B.C. 1996, C.113

**ADJUDICATOR:** David B. Stevenson

**FILE No.:** 2001/517

**DATE OF DECISION:** October 22, 2001

## DECISION

### OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”) brought by Stuart M.J. Marsh (“Marsh”) of a Determination that was issued on June 15, 2001 by a delegate of the Director of Employment Standards (the “Director”).

Marsh had filed a complaint with the Director under the *Act* alleging he had not been paid all wages earned during his employment with Sechelt Peninsula Silviculture Inc. (“Sechelt”). The Determination concluded the *Act* had not been contravened, ceased the investigation of the complaint and closed the file.

In his appeal, Marsh says he wants the Determination to contain a validation of his claim for travel time, as required by the *Silviculture Act*, hopefully resulting in a change in his Record of Employment showing the corrected hours worked.

### ISSUE

The issue in this appeal is whether Marsh has shown an error in the Determination sufficient to persuade the Tribunal to exercise its authority under Section 115 of the *Act* and vary it as requested.

### FACTS

Marsh worked for Sechelt from March 16, 2000 to April 28, 2000 as a tree planter. He was paid on a piece rate basis.

The position taken by Sechelt was that Marsh worked no more than eight hours a day, including travel time, and had been paid all wages owed. Marsh contended he worked ten hours a day, eight hours “in the bush” and 2 hours travelling. The Determination notes the position taken by Marsh as follows:

Marsh wants the employer to add additional travel time hours to his records. He was short hours for “Unemployment Insurance”. He maintains he should have been credited with an additional 2-hours/day for travel time or a total of 68 additional hours.

Neither Marsh nor Sechelt kept a record of daily hours worked by Marsh, but Sechelt had prepared daily piece rate records for him.

The Determination concluded that whether Marsh worked eight hours a day or ten hours a day, he had been paid more than what was required by the *Act*. Marsh does not challenge that conclusion.

### **ARGUMENT AND ANALYSIS**

It is not necessary to outline the arguments in any detail, as I am not persuaded that there is any statutory purpose served by giving consideration to this appeal. It is apparent that Marsh seeks no remedy under the *Act*. He seeks only to have either the Director or the Tribunal validate his claim that he worked ten hours a day. The objective of the appeal relates to a claim, or potential claim, for unemployment insurance benefits. That is a matter that is better taken up with the statutory body designated to administer those benefits.

### **ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination dated June 15, 2001 be confirmed.

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**David B. Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**