

An appeal

- by -

Brink Forest Products Ltd.
("Brink")

- 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.: 2001/650

DATE OF DECISION: November 8, 2001

DECISION

OVERVIEW

This decision completes an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) brought by Brink Forest Products Ltd. (“Brink”) of a Determination that was issued on January 12, 2001 by a delegate of the Director of Employment Standards (the “Director”). In an earlier decision, BC EST #D407/01, I concluded that the Determination had incorrectly calculated the statutory holiday entitlement of the complainant and referred the matter back to the Director to correct the error. That task has been completed and the correction has been referred back to me for final adjudication.

I have received a report from the Director, dated September 13, 2001, comments on that report from counsel for Brink, dated October 4, 2001 and a response to those comments from the Director dated October 17, 2001. I have reviewed and considered them.

ISSUE

The issue is whether the wage adjustment made by the Director is correct.

FACTS

It is unnecessary to restate all of the facts. In the earlier decision, it is noted that Mr. Rai gave evidence about the payment of statutory holidays to Van Sluytman. The following is also noted:

Van Sluytman said he was pretty sure he had been paid for all the statutory holidays and did not dispute the evidence provided by Mr. Rai.

ARGUMENT

Brink argues that the adjustment made by the Director is incorrect because it still includes a requirement to pay for statutory holidays for which Van Sluytman received payment. The holidays are identified and the company’s payroll records for the days in issue were provided with the submission filed by Brink. They support their assertion that Van Sluytman was paid for the statutory holidays in question. Van Sluytman has not filed a response saying he was not paid for those holidays.

I am satisfied that Van Sluytman was paid for the holidays in question and that the Determination should be varied to reflect that. The amount of the Determination is inclusive of the interest that accrued under Section 88 of the *Act* up to the date of its issuance, January 12, 2001. Interest that has accrued subsequent to the date of the Determination will be added.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determination dated January 12, 2001 be varied to show an amount owing of \$19,620.07, together with any interest that has accrued pursuant to Section 88 of the *Act*.

David B. Stevenson
Adjudicator
Employment Standards Tribunal