

AMROTH BUILDERS LTD., Appellant and IAN DODD, Appellant v DIRECTOR OF EMPLOYMENT STANDARDS, Respondent and JEAN BOSCO NDIKUMUKIZA, Respondent

LRB File Nos. 127-24, 251-24 & 104-25; August 15, 2025

Chairperson, Kyle McCreary (sitting alone pursuant to subsection 6-95(3) of *The Saskatchewan Employment Act*)

Citation: *Amroth Builders v Director of Employment Standards*, 2025 SKLRB 38

For Amroth Builders Ltd. and Ian Dodd:

Ian Dodd

Counsel for the Respondent, Director of Employment
Standards:

Savannah L. Downs
Donnelyn Morrison (Student-at-law)

For the Respondent, Jean Bosco Ndikumukiza:

Self-represented

Wage assessment appeal – Jurisdiction – Adjudicator and Board have no discretion if appeal period missed – Appeal dismissed

REASONS FOR DECISION

Background:

[1] Kyle McCreary, Chairperson: Mr. Dodd and Amroth Builders Ltd. (collectively “the Employer”) appeal a decision of an adjudicator (“the Adjudicator”) dated May 14, 2025, dismissing the Employer’s appeal of a wage assessment issued by the Director of Employment Standards (“the Director”) in favour of Mr. Ndikumukiza.

[2] The Adjudicator’s decision followed the directions of this Board as set out in a previous decision in *Amroth Builders v Director of Employment Standards*, 2025 SKLRB 17.

[3] The Adjudicator found that Mr. Dodd and Amroth were served by registered mail on May 31, 2024. The Appeal to an Adjudicator was filed on Jun 25, 2024. This was outside of the timeline for appeal set by s. 2-75(2) of *The Saskatchewan Employment Act*, SS 2013, c S-15.1 (“the Act”), as such the Adjudicator did not have jurisdiction to hear the appeal and dismissed the Employer’s appeal.

[4] On June 5, 2025, the Employer appealed the Adjudicator’s decision to this Board.

[5] The primary ground of appeal is that the Adjudicator should have considered the Employer's argument that Mr. Ndikumukiza was not an employee. The Director and Mr. Ndikumukiza oppose the appeal.

Relevant Statutory Provisions:

[6] The Director issues wage assessments pursuant to s 2-74 of the Act:

Wage assessments

2-74(1) *In this Division, "adjudicator" means an adjudicator selected pursuant to subsection 4-3(3).*

(2) *If the director of employment standards has knowledge or has reasonable grounds to believe or suspects that an employer has failed or is likely to fail to pay wages as required pursuant to this Part, the director may issue a wage assessment against either or both of the following:*

(a) *the employer;*

(b) *subject to subsection (3), a corporate director.*

(3) *The director of employment standards may only issue a wage assessment against a corporate director if the director has knowledge or has reasonable grounds to believe or suspects that the corporate director is liable for wages in accordance with section 2-68.*

(4) *Repealed. 2020, c 12, s.5.*

(5) *Repealed. 2020, c 12, s.5.*

(6) *If the director of employment standards has issued a wage assessment pursuant to subsection (2), the director shall cause a copy of the wage assessment to be served on:*

(a) *the employer or corporate director named in the wage assessment; and*

(b) *each employee who is affected by the wage assessment.*

(7) *A wage assessment must:*

(a) *indicate the amount claimed against the employer or corporate director;*

(b) *direct the employer or corporate director to, within 15 business days after the date of service of the wage assessment:*

(i) *pay the amount claimed; or*

(ii) *commence an appeal pursuant to section 2-75; and*

(c) *in the case of a wage assessment issued after money has been received from a third party pursuant to a demand issued pursuant to Division 4, set out the amount paid to the director of employment standards by the third party.*

(8) *The director of employment standards may, at any time, amend or revoke a wage assessment.*

[7] Appeals of wage assessments to adjudicators are pursuant to s. 2-75:

Commencement of appeal to adjudicator

2-75(1) Any of the following may appeal a wage assessment:

- (a) *an employer or corporate director who disputes liability or the amount set out in the wage assessment;*
 - (b) *an employee who disputes the amount set out in the wage assessment.*
- (2) *An appeal pursuant to this section must be commenced by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment.*
- (3) *The written notice of appeal filed pursuant to subsection (2) must:*
- (a) *set out the grounds of the appeal; and*
 - (b) *set out the relief requested.*
- (4) *If the appellant is an employer or a corporate director, the employer or corporate director shall, as a condition of being eligible to appeal the wage assessment, deposit with the director of employment standards the amount set out in the wage assessment or any other prescribed amount.*
- (5) *The amount mentioned in subsection (4) must be deposited before the expiry of the period during which an appeal may be commenced.*
- (6) *Subsections (4) and (5) do not apply if moneys that meet the amount of the wage assessment or the prescribed amount have been paid to the director of employment standards pursuant to a demand mentioned in section 2-70.*
- (7) *An appeal filed pursuant to subsection (2) is to be heard by an adjudicator in accordance with Part IV.*
- (8) *On receipt of the notice of appeal and deposit required pursuant to subsection (4), the director of employment standards shall forward to the adjudicator:*
- (a) *a copy of the wage assessment; and*
 - (b) *a copy of the written notice of appeal.*
- (9) *The copy of the wage assessment provided to the adjudicator in accordance with subsection (8) is proof, in the absence of evidence to the contrary, that the amount stated in the wage assessment is due and owing, without proof of the signature or official position of the person appearing to have signed the wage assessment.*
- (10) *On the final determination of an appeal, the amount deposited pursuant to subsection (4):*
- (a) *must be returned if the employer or corporate director is found not to be liable for the wages; or*
 - (b) *must be applied to the wage claims of the employees if the determination is in favour of the employees in whole or in part and, if there is any part of the amount remaining after being applied to those wage claims, the remaining amount must*

be returned to the employer or corporate director.

...

- [8]** The authority of an adjudicator when hearing an appeal are set out in s. 4-6 of the Act:

Decision of adjudicator

4-6(1) *Subject to subsections (4) and (5), the adjudicator shall:*

(a) *do one of the following:*

- (i) *dismiss the appeal;*
- (ii) *allow the appeal;*
- (iii) *vary the decision being appealed; and*

(b) *provide written reasons for the decision to the board, the director of employment standards or the director of occupational health and safety, as the case may be, and any other party to the appeal.*

(2) *Repealed. 2020, c 12, s. 12.*

(3) *Repealed. 2020, c 12, s. 12.*

(4) *If, after conducting a hearing concerned with section 2-21, the adjudicator concludes that the employer has breached section 2-21, the adjudicator may exercise the powers given to the Court of King's Bench pursuant to sections 38 to 41 of The Saskatchewan Human Rights Code, 2018 and those sections apply, with any necessary modification, to the adjudicator and the hearing.*

(5) *If, after conducting a hearing concerned with section 2-42, the adjudicator concludes that the employer has breached section 2-42, the adjudicator may issue an order requiring the employer to do any or all of the following:*

- (a) *to comply with section 2-42;*
- (b) *to pay any wages that the employee has lost as a result of the employer's failure to comply with section 2-42;*
- (c) *to restore the employee to his or her former position;*
- (d) *to post the order in the workplace;*
- (e) *to do any other thing that the adjudicator considers reasonable and necessary in the circumstances.*

- [9]** The Board's authority to hear appeals is pursuant to s. 4-8 of the Act:

Right to appeal adjudicator's decision to board

4-8(1) *An employer, employee or corporate director who is directly affected by a decision of an adjudicator on an appeal or hearing pursuant to Part II may appeal the decision to the board on a question of law.*

(2) *A person who is directly affected by a decision of an adjudicator on an appeal pursuant to Part III or Part V may appeal the decision to the board on a question of law.*

- (3) *A person who intends to appeal pursuant to this section shall:*
- (a) file a notice of appeal with the board within 15 business days after the date of service of the decision of the adjudicator; and*
 - (b) serve the notice of appeal on all parties to the appeal.*
- (4) *The record of an appeal is to consist of the following:*
- (a) in the case of an appeal or hearing pursuant to Part II, the wage assessment or the notice of hearing;*
 - (b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;*
 - (b.1) in the case of an appeal pursuant to Part V, any written decision of a radiation health officer or the director of occupational health and safety, respecting the matter that is the subject of the appeal;*
 - (c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III or Part V, as the case may be;*
 - (d) any exhibits filed before the adjudicator;*
 - (e) the written decision of the adjudicator;*
 - (f) the notice of appeal to the board;*
 - (g) any other material that the board may require to properly consider the appeal.*
- (5) *The commencement of an appeal pursuant to this section does not stay the effect of the decision or order being appealed unless the board orders otherwise.*
- (6) *The board may:*
- (a) affirm, amend or cancel the decision or order of the adjudicator; or*
 - (b) remit the matter back to the adjudicator for amendment of the adjudicator's decision or order with any directions that the board considers appropriate.*

Analysis and Decision:

Standard of Review

[10] The Board's jurisdiction to hear appeals under Part IV is appellate in nature and restricted to questions of law: *Tysdal v Cameron*, 2025 SKLRB 1. The standard of review on questions of law is one of correctness. The Board views the questions of law raised on this appeal to be:

- a. Did the adjudicator err in law as to the effect of the statutory timelines to appeal?
- b. Did the adjudicator err in law in the requirement for the appeal to be in writing?

- c. Did the adjudicator err in law in refusing to consider evidence and argument on the merits?

Did the Adjudicator Err in His Conclusion on Jurisdiction?

[11] The Adjudicator's primary conclusion was that the appeal was commenced outside of the time limit set by s. 2-72(2) of the Act and as a result the Adjudicator had no jurisdiction to hear the appeal. This analysis is at paras 19-26 of the decision:

19. *Subsection 2-75(2) of the SEA states:*

An appeal pursuant to this section must be commenced by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment.

20. *The Wage Assessment was served on the appellants on Friday, May 31, 2024. The 15 business day limitation period ended at the end of day on Friday, June 21.*

21. *None of what I have laid out so far was contradicted by evidence from Mr. Dodd. Mr. Dodd presented two arguments. The first was that he did receive the claim and did respond to it within 15 days. The second argument was that Mr. Dodd was never Mr. Ndikumukizaa's employer.*

22. *I will first address Mr. Dodd's argument that he did respond to the Wage Assessment within 15 business days. Mr. Dodd says he did indeed receive the Wage Assessment together with the letter signed by Lorne Deason contained in exhibit EE-2. Mr. Dodd says he telephoned Mr. Deason within an hour of receiving the letter, and that Mr. Deason said he would get back to Mr. Dodd, but never did. Mr. Dodd says that he followed up by leaving further messages for Mr. Deason. He says that Mr. Deason retired and no one at the Ministry was checking his voice mail. Mr. Dodd says Mr. Deason's letter said for him to contact Mr. Deason within 15 business days and that he had done so, but no one from the Ministry got back to him.*

23. *The first two paragraphs of Mr. Deason's letter state the following:*

Under section 2-74 of The Saskatchewan Employment Act, consider the attached Wage Assessment as a legal order to pay outstanding wages. Accordingly, you must pay the total amount of this Wage Assessment within 15 business days after the service date. To pay, send me a cheque made out to the claimant.

However, if you disagree with this Wage Assessment, you may appeal to an independent adjudicator under section 2-75 of The Saskatchewan Employment Act. Your appeal must be in writing and include the reasons for your appeal and the change you want. Employment Standards must receive your appeal within 15 business days of being served the Wage Assessment along with an appeal deposit of \$500.00, made payable to the "Minister of Finance".

24. *Mr. Deason's letter which accompanied the Wage Assessment, clearly states that if Mr. Dodd wishes to appeal the Wage Assessment he must send Employment Standards a written appeal and a \$500 deposit cheque within 15 business days. This letter is a clear, concise and accurate summary of the requirements to appeal contained in the SEA. However, Mr. Dodd did not follow the instructions. Instead, he submitted his appeal letter and deposit cheque on June 24, after the time limit for commencing an appeal had passed.*

25. The SEA states that to commence an appeal the appellant must submit a written appeal and a deposit cheque. An appeal cannot be commenced by telephoning a Labour Standards Officer, or by leaving telephone messages.

26. As an adjudicator under the SEA, I only have the power to hear an appeal that was commenced within the time limit set by the SEA. I do not have the jurisdiction to hear an appeal like this one which was filed after the time limit had passed. I also do not have the jurisdiction to extend the time limit. Therefore, I must conclude that Mr. Dodd's first argument fails.

[12] The Employer stated in argument that it was not seeking to extend the timeline for appeal; however, the Employer's primary argument is that the Adjudicator should have considered whether Mr. Ndikumukiza was actually an employee. In order to consider the relationship between the parties, the Adjudicator would have had to have jurisdiction. The Board finds that that Adjudicator did not err in finding that he did not have jurisdiction to consider the appeal.

[13] On the question of law as to how to interpret the timeline to appeal, the Adjudicator was correct. Rights of appeal are statutory and as a statutory right may be expressly limited by statute, *Beer v Saskatchewan (Highways and Infrastructure)*, 2016 SKCA 24. If a statute does not provide an authority or discretion to extend time, there is no authority to do so, *Pruden v Olysky Limited Partnership*, 2018 SKCA 75. As stated by the Board in *Saskatchewan v Martell*, 2021 CanLII 122408 (SK LRB):

[83] Finally, the authorities are clear that a person's right to appeal expires if not brought within the statutory time limitation and that, in the absence of a statutory provision providing authority to extend the time for an appeal, there is no authority to extend the time period: Jordan v Saskatchewan Securities Commission (1968), 1968 CanLII 519 (SK CA), 64 WWR 121 (Sask CA); Houston v Saskatchewan Teachers' Federation, 2009 SKCA 70; Brady v Jacobs Industrial Services Ltd, 2016 CanLII 49900 (Sask LRB); Egware v Regina (City), 2016 SKQB 388 (CanLII); Pruden v Olysky Ltd, 2018 SKCA 75.

Subsections 2-75(2) - (5) impose several limits on a right to appeal including timelines, a deposit requirement and a requirement for the appeal to be written. The Act does not grant the Adjudicator the authority to relieve an appellant from any of these requirements, and there is no express provision for the Adjudicator to extend the time for filing an appeal. There is no error in the Adjudicator's interpretation of the effect of the expiration of the time limit to appeal.

[14] On the issue of the requirement for the appeal to be in writing, this is also a statutory requirement under s. 2-75(2), an appellant must file a written notice with the Director. This requirement was clearly communicated to the Employer in the Director's letter. The Employer's reliance on a subsequent phone call does not relieve the Employer of complying with the statutory timeline or grant the adjudicator jurisdiction to extend it.

[15] The Adjudicator was correct in the law as it relates to the effect of the time limits of an appeal and the requirement for an appeal to be in writing. This ground of appeal is dismissed.

Did the Adjudicator Err in Not Considering the Employer's Arguments on the Merits?

[16] The Adjudicator had no discretion to extend the time period upon finding the date of service. The Employer sought to argue matters related to the merits and whether Mr. Ndikumukiza was an employee. The Employer viewed this as a jurisdictional argument, the Adjudicator viewed it as a merits argument outside of his jurisdiction given the timeliness issue. The Adjudicator addressed this issue at paragraphs 27-29:

27. I turn now to Mr. Dodd's second argument, which is that Mr. Dodd says he was never Mr. Ndikumukizaa's employer and that he told his to Mr. Deason.

28. By issuing the Wage Assessment, it is clear that Employer Standards concluded that Amroth Builders Ltd. was Mr. Ndikumukizaa's employer. It is identified as such in the Wage Assessment itself. Mr. Dodd is also named in the Wage Assessment as a director of the employer.

29. If the appellants had commenced this appeal within the prescribed time limit, an adjudicator could hear evidence on whether Amroth Builders Ltd. should be found to be Mr. Ndikumukizaa's employer within the meaning of the SEA. However, this argument is an arguments on the merits of the Wage Assessment. An adjudicator can only hear an argument on the merits of an appeal if that adjudicator has jurisdiction to hear the appeal. The reason for today's hearing was to determine if I have jurisdiction to hear the merits of the appeal.

[17] The Employer argues that this analysis is in error because whether Mr. Ndikumukiza was an employee was a jurisdictional argument as to whether the wage assessment could have been issued that should have been considered. The Adjudicator was correct that this is a merits argument. A wage assessment is presumptively correct pursuant to s. 2-75(9). To submit evidence that the wage assessment was wrong for any reason, including challenging the underlying contractual relationship, is an argument as to the correctness of the wage assessment and is not within the Adjudicator's jurisdiction if the appeal is not filed in compliance with the statutory requirements.

[18] Under the Act, neither this Board, nor the Adjudicator can consider the merits of a wage assessment appeal if the appeal is not filed in compliance with the statutory requirements. As noted above, the requirements of the appeal provisions were not met, therefore, the Adjudicator was correct to not consider the argument as to the nature of the contractual relationship between the parties.

[19] Mr. Ndikumukiza filed submissions related to the relationship between the parties. As the Board finds no error in the Adjudicator not considering the Employer's argument about the employment relationship, the Board also declines to consider Mr. Ndikumukiza's submissions on the same issue.

Interest

[20] Mr. Ndikumukiza has requested that the Board add interest to the wage assessment. This is an issue going to the calculation of the wage assessment. The calculation of the wage assessment was not addressed by the Adjudicator and the Board declines to address this new issue on appeal.

Conclusion:

[21] As a result, with these Reasons, an Order will issue that the Appeal in LRB File No. 104-25 is dismissed and the decision of the Adjudicator in LRB File No. 127-24 is affirmed (referenced by the Adjudicator in their decision as LRB File No. 251-24).

[22] The Board thanks the parties for the helpful submissions they provided, all of which were reviewed and considered in making a determination in this matter.

DATED at Regina, Saskatchewan, this **15th** day of **August, 2025**.

LABOUR RELATIONS BOARD

Kyle McCreary
Chairperson