



**DECISION OF ADJUDICATOR
IN THE MATTER OF A HEARING
PURSUANT TO SECTION 2-75 OF
THE SASKATCHEWAN EMPLOYMENT ACT
LRB FILE NO. 248-14**

**101176473 SASKATCHEWAN LTD. o/a BIG HAMMER
CONSTRUCTION and JOSEPH KEITH HOLT being a Director of
101176473 SASKATCHEWAN LTD. o/a BIG HAMMER
CONSTRUCTION**

APELLANT

-AND-

**DIRECTOR OF EMPLOYMENT STANDARDS representing,
DANIEL COUTTS, STEWART SIMPSON, BRADLEY HOLLER,
RICHARD HEFFER, ERIC GRIDALE, LANCE MARTIN, KIRK
MORRISON, BLAKE NIXEY**

RESPONDENTS

DATE OF HEARING: MARCH 2, 2015

**PLACE OF HEARING: CONFERENCE ROOM #10.1,
10TH FLOOR
122 – 3RD AVENUE NORTH
SASKATOON, SASKATCHEWAN**

DECISION

[1] This is an appeal by 101176473 Saskatchewan Ltd. o/a Big Hammer Construction and Joseph Holt (the “Appellants”) with respect to a Wage Assessment issued by the Respondent, the Director of Employment Standards on October 19, 2014. The Wage Assessment required the Appellants to pay the Respondents the sum of \$31,725.44 representing unpaid wages. The Wage Assessment was prepared pursuant to s.2-70 of *The Saskatchewan Employment Act*, S.S. 2013, Chapter S-15.1 (the “Act”).

ISSUE

[2] The Appellants raised the following grounds of appeal:

- a) The Appellant disagrees with the liability of the wages as stated in Wage Assessment;
- b) The Appellant disagrees with the extent of the liability, if any, to the employees; and seeks a review of the quantum of wages imposed;
- c) The Appellant asserts that, given the unique circumstances of the matter, other remedies, alternate to the imposition of a Wage Assessment should have been canvassed, and failing to canvass such remedies amounted to a miscarriage of justice;
- d) The Appellant asserts that, notwithstanding that the Minister was aware that the Appellant had legal counsel assisting with these matters, the Minister failed to correspond with the Appellant’s counsel, thereby prejudicing the Appellant’s ability to adequately consider his options, and further, to appeal within the appropriate time period

[3] The Appellants seeks the following relief:

- a) A determination as to whether or not the employer is liable to the employees as claimed;

- b) If so, the Appellant seeks a determination as to the quantum owed by the Appellant to the employees;
- c) A stay of proceedings of enforcement of the Wage Assessment, pending the outcome of the proceedings at the Court of Queen's Bench; and
- d) Any other relief that the Appellant may suggest and the Adjudicator may, in his discretion, permit.

FACTS

[4] At the commencement of the Hearing, the Appellant's legal counsel advised he wished to advise the Appellant agreed with the Wage Assessment and the liability of the Appellant. The parties agreed the Wage Assessment No. 6891 was accurate and the Appellant should be held liable for the wages owing to the Respondents in the amount of \$31,725.44.

[5] Appellant's counsel further advised he also wished to have a determination by me of the relief requested in paragraph 3 c) and d) above.

[6] The relevant sections of the *Act* are as follows:

Adjudicator – duties

4-2 An Adjudicator shall:

- (a) hear and decide appeals pursuant to Part II and conduct hearings pursuant to Division 5 of Part II;

Decision of Adjudicator

4-6(1) Subject to subsections (2) to (5), the adjudicator shall:

- (a) do one of the following:
 - (i) dismiss the appeal;
 - (ii) allow the appeal;
 - (iii) vary the decision being appealed;
- (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.

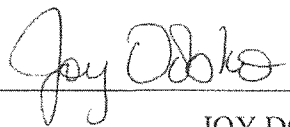
[7] My jurisdiction is limited to Appeals related to Wage Assessments. Counsel was advised Division 5 related only to Wage Assessments and the powers provided to me

under the *Act*. Section 4-6(1) provides me with jurisdiction to confirm, dismiss or vary the amount of the wage assessment or the Appellant's liability for the wages. It is my opinion, I have no jurisdiction to Order a stay of proceedings of enforcement pending the outcome of the Queen's Bench action as requested by the Appellant. Further, Appellant's legal counsel was not able to provide me with a Section in the *Act* that granted me these powers. Accordingly, the Appellant's appeal must be dismissed with respect to the relief requested under paragraph 3 c) and d) above.

CONCLUSION

[8] The Appeal is dismissed and the Wage Assessment is confirmed in the amount of \$31,725.44. The Appellant's request for relief against enforcement of the Wage Assessment is also dismissed as I have no jurisdiction under the *Act* to make such an Order.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 24th day of July, 2015.



JOY DOBKO
Adjudicator