



**DECISION OF ADJUDICATOR  
IN THE MATTER OF AN ADJUDICATION PURSUANT TO SECTION 2-75  
AND 4-6 OF *THE SASKATCHEWAN EMPLOYMENT ACT***

**APPELLANTS (RESPONDENTS):** 101182403 SASKATCHEWAN LTD. o/a  
Kaposvar One Stop Esso and SAFRAZ  
JAFRI and UMME RUBAB as directors  
of 101182403 Saskatchewan Ltd.

**RESPONDENT (COMPLAINANT):** BHAGWANT SINGH BANGA

**Dale Schmidt, Employment Standards Officer, Appearing for the Director of  
Employment Standards, Employment Standards Division**

**DATE OF HEARING:** May 30, 2016

**PLACE OF HEARING:** 3rd Floor Boardroom  
1870 Albert Street  
Regina, Saskatchewan

**I. INTRODUCTION**

This is an appeal of a Wage Assessment brought by 101182403 Saskatchewan Ltd. operating as Kaposvar One Stop Esso (the Company or Kaposvar Esso) and its two directors, Safraz Jafri (Mr. Jafri) and Umme Rubab. Wage Assessment No. 7586 directed them to pay \$3,940.96 to Bhagwant Singh Banga (Mr. Banga) or appeal pursuant to section 2-75 of *The Saskatchewan Employment Act* (the Act).

On May 30, 2016, the following individuals were present at the hearing:

- Safraz Jafri, co-owner and director of the Company
- Ted Yashcheshen, Mr. Jafri's friend and witness
- Bhagwant Singh Banga, former Kaposvar Esso employee
- Jaspreet Singh Banga, Mr. Banga's son and witness
- Dale Schmidt, Employment Standards Officer
- Brent Young, Employment Standards Officer, Manager of Investigations South (observer)
- Jas McConnell, Employment Standards Officer (observer)

## **II. PRELIMINARY MATTERS/OBJECTIONS**

Prior to the hearing, Mr. Jafri raised a concern about Mr. Banga's son acting as interpreter for his father at the hearing. I told the parties I would not interfere with Mr. Banga's choice of interpreter should he need one, but that any concerns regarding Mr. Jaspreet Singh Banga's bias or credibility could be raised at the hearing. If, after hearing evidence, I were to find Mr. Jafri's concerns were legitimate, I explained this would affect the weight I would give to Mr. Banga's testimony. In the end, Mr. Banga was able to understand what was being said at the hearing and was able to testify without much assistance from his son.

At the beginning of the hearing, we discussed the appeal having been filed after the filing deadline. The Notice of Appeal was filed almost four months after issuance of the Wage Assessment. Despite this delay, Employment Standards does not object to the appeal being heard because a number of circumstances prevented it from being filed on a timely basis, including issues with service of the Wage Assessment and several attempts at settlement and payment of the Wage Assessment.

Mr. Banga confirmed he was representing both the Company and his wife, Umme Rubab, at the hearing. His wife was unable to attend the hearing because she was with their children in Calgary, AB.

## **III. THE DISPUTE**

On November 23, 2015, the Director of Employment Standards issued Wage Assessment No. 7586 against the Company and its directors. The Appellants appealed pursuant to section 2-75 of the Act. In a two-page Notice of Appeal dated March 16, 2015, Mr. Jafri claims the Wage Assessment is based on unreliable timesheets stolen by Mr. Banga from Kaposvar Esso's office. Further, he claims the timesheets are unreadable and could have been falsified by Mr. Banga. Mr. Jafri also claims Mr. Banga is seeking double wages for overtime hours he was already paid for in cash at his request. On this basis, Mr. Jafri asks for revocation of the Wage Assessment.

## **IV. THE FACTS**

At the beginning of the hearing, the parties agreed to the following basic set of facts:

- 101182403 Saskatchewan Ltd. is a registered business in Saskatchewan.
- Mr. Banga was employed at Kaposvar Esso starting December 11, 2014 and ending September 7, 2015.
- Mr. Banga earned \$12 per hour while employed at Kaposvar Esso.

The parties tendered evidence by way of affirmed testimony and documents. Two

witnesses testified for the Appellants, Ted Yashcheshen and Safraz Jafri. Two witnesses testified for the Respondent, Jaspreet Singh Banga and Bhagwant Singh Banga.

The following exhibits were entered into evidence:

**Employer Exhibits (Appellants)**

ER1 – Copy of letter of termination dated August 31, 2015 (1 page);  
ER2 – Copies of timesheets (17 pages);

**Employee Exhibits (Respondent)**

EE1 – List of hours worked by Bhagwant Singh Banga (1 page);  
EE2 – Copies of timesheets (5 pages);  
EE3 – Copies of pay stubs (9 pages);  
EE4 – Copy of letter to Meg Brookes, Immigration, dated August 31, 2015 (1 page);  
EE5 – Copy of letter from Dale Schmidt dated November 10, 2015, attaching Employment Standards Inspection Report (3 pages);  
EE6 – Copy of Corporate Registry documentation (2 pages);  
EE7 – Copy of Salary Calculation by CRA (1 page); and  
EE8 – Copy of RBC records (1 page).

In addition to these exhibits, Mr. Jafri played two recordings of video footage during the hearing. The first video was a recording of a conversation between himself and Mr. Banga regarding payment of cash for overtime hours and the second video was security footage of Mr. Banga and his father at Kaposvar Esso on two separate occasions in May of 2015.

**Employer's Evidence**

Ted Yashcheshen's testimony is summarized as follows:

- He is Mr. Jafri's friend and business associate and he tried to help Mr. Jafri figure out what was going on here. He reviewed the security tapes and saw Mr. Banga's son coming out of the office with documents in his hand. He assumes Mr. Banga's son removed his father's original timesheets from the office since they are missing.
- He looked at the copies of the timesheets they picked up from the Yorkton Employment Standards office but the documents are not legible. He thought he could help Mr. Jafri check the timesheets against the security footage to see when Mr. Banga arrived for and left work but the timesheets were too difficult to read and some days are missing on the videotape. Everything is unreliable here.
- It's not fair for Mr. Banga's son to enter the office without authorization and take the timesheets and leave Mr. Jafri without a way to disprove Mr. Banga's claim.

Safraz Jafri's testimony is summarized as follows:

- He owns the gas station in Esterhazy with his wife.
- Mr. Banga came to Esterhazy in June of 2013 and was working as a cook in a nearby restaurant. They became friendly while Mr. Banga was working at the restaurant. Mr. Banga was having trouble with the owner of the restaurant and asked if he could come work at the gas station. He applied for a work permit for Mr. Banga to work at Kaposvar Esso and it was approved.
- Mr. Banga was hired as a cook but was part of the team at Kaposvar Esso which is more than a gas station. They sell food, including pizza, sandwiches and East Indian food. Employees prepare and sell food, pump gas and work the till. After he hired Mr. Banga, he realized Mr. Banga knew nothing about cooking.
- His wife had surgery at the end of November and she was not well for a few months. He was also dealing with his own health problems. Because of this and a shortage of workers, Mr. Banga worked extra hours from the time he was hired. Mr. Banga typically worked 45-50 hours per week but at times worked more than that. Kaposvar Esso was open from 5:00 a.m. to 10:00 p.m. They agreed he would pay cash for all overtime hours worked at Mr. Banga's regular rate of pay (\$12 per hour). It worked out for both of them to pay overtime hours in cash. They were helping each other.
- Mr. Banga started working less by the end of May, 2015.
- Aside from not being able to cook (which was the reason he hired him in the first place), Mr. Banga became a worse employee as time went on. He stole his timesheets, intentionally tried to hurt the business by dropping food, etc., and was responsible for cash shortages.
- He eventually fired Mr. Banga with one week's notice and pay and provided him with a termination letter (ER 1). Mr. Banga kept his store keys for 20 days after he fired him. The RCMP eventually returned the keys. Mr. Banga's last day of work was August 31, 2015, but he paid him until the end of the first week of September.
- He became suspicious of Mr. Banga and his son prior to firing Mr. Banga. Another employee quit in May and went to Employment Standards. He believes after going through the process, the other employee, who was a friend of Mr. Banga's, told Mr. Banga not to admit to receiving overtime pay in cash.
- Mr. Banga offered that his son could help with the computer system for the gas station even though his son did not do that sort of work. He had work schedules on the system but they were wiped when Mr. Banga's son installed a scanner for him and helped with the computer system (between March and May, 2015).
- After all of this, his suspicions led him to review his security video camera footage which showed Mr. Banga's son entering and exiting the office on a few different dates.
- Each employee was responsible for recording their own hours and he paid them bi-weekly based on those hours. The sheets were kept out front and then

gathered every two weeks and taken to the office for payroll. He kept the originals in a folder in the office.

- He has original timesheets for employees from before and after Mr. Banga's employment but has no original timesheets for Mr. Banga or another employee who quit shortly before.
- He paid everything he owed to Mr. Banga. He paid him cash for all of his overtime hours at his regular rate of pay but kept no records of these cash payments. He paid cash to Mr. Banga bi-weekly for every hour worked over 80 hours.
- He made a video of his conversation with Mr. Banga to prove he had paid cash for Mr. Banga's overtime hours.
- Although he thought another employee could confirm to Mr. Schmidt that he had handed cash to Mr. Banga on one occasion on his behalf, the employee did not do so.
- After discussing matters with Mr. Schmidt, he stopped paying employees overtime hours in cash.

### **Employee's Evidence**

Jaspreet Singh Banga's testimony is summarized as follows:

- His dad photographed his timesheets on his dad's phone and later on his phone which had a better camera. He told his dad to take pictures of his timesheets because his dad was having problems with Mr. Jafri and was not being paid for his overtime hours. His dad was supposed to be working as a cook but was instead pumping gas and cleaning. Mr. Jafri tried to get his dad to fill propane without the proper certificate and would not allow him to change shifts although everyone else was allowed to. Mr. Jafri made him shovel snow and work closing all the time.
- They made no changes to his dad's timesheets which were all recorded in his dad's handwriting.
- Mr. Jafri tried to get his dad to sign his termination letter to acknowledge nothing was owed to him but his dad refused to sign it.
- His dad did not return the key right away because he was not asked for it when he was fired and then they were busy for a couple of weeks dealing with Immigration and Employment Standards. He told his dad to return the key but when he tried, Mr. Jafri would not accept it because he had already changed the lock. They gave the key to the RCMP.
- He went into the office to try to fix the printer. Mr. Jafri was there at the time. He was unable to fix it.
- He was not in the office after hours. He was at the gas station sometimes when his dad was working but was not in the office. He never left the office with papers. He never stole anything.
- He sometimes went to help his dad with closing when there were shortages. His dad would call him and ask for help.

- When another employee quit, Mr. Jafri started treating his father worse.
- He has no knowledge of any cash payments to his dad. His dad would give him his paycheck every two weeks and he would deposit it for him.
- His dad was told that Mr. Jafri was good to work for. When it turned out this was not the case, his dad stuck with it because he had a closed work permit. It was winter time and he needed the job.
- When Mr. Jafri showed the video footage of his dad guarding the office door while he went into the office on May 4, 2015 around 9:30 p.m. and again on May 8, 2015 (this time leaving the office with papers in his hand), he said that he was mistaken when he testified he had not entered the office. He explained that he could not remember every minute. He thinks he was probably there to help his dad with closing – doing calculations and balancing the numbers. He may have been looking for the closing information in the office. He never left the store with any documents and the video only shows him leaving the office with something in his hand, not leaving the store.

Bhagwant Singh Banga's testimony is summarized as follows:

- He was supposed to be working 40 hours per week but he worked overtime from the very beginning. He recorded his own hours by writing down his start and end time, and total hours, each day.
- He was only paid by cheque. He did not receive cash for overtime hours. The only cash he received from Mr. Jafri was when he was reimbursed for supplies he had purchased for Kaposvar Esso.
- He did not ask Mr. Jafri about his overtime pay. He wanted another job but he did not have an open job permit. He was waiting for his paperwork before he could leave.
- He took pictures of his hours with his phone. He also took pictures with his son's phone because his phone was old and the camera was not as good. He had these pictures printed so that there was a record of his hours.
- He does not know what happened to his original timesheets. He did not take them.
- He was not the only employee who took pictures of his timesheets. Other employees did it too.
- He calculated his own hours and filled out his own timesheets. The timesheets are all filled out in his own handwriting.
- When Mr. Banga showed him a video of him allegedly agreeing he had received cash for his overtime hours, he explained the video shows him acknowledging they had an agreement he would be paid cash for overtime. However, he says the video does not show he agreed to having received any cash.

## **V. ARGUMENT**

The Appellants' argument is summarized as follows:

- He always planned on appealing even when he initially cut a cheque to Employment Standards for the amount claimed in the Wage Assessment. He was worried for his business and reputation. He felt threatened but was told by Employment Standards that he could appeal even if he paid the Wage Assessment. He ended up stopping payment on the cheque. He cut a second cheque which was refused by Mr. Banga because it did not include a \$7.00 stop payment fee which Mr. Banga had been charged by his bank.
- He paid Mr. Banga for all of the hours he worked.
- He hired him as a cook and Mr. Banga knew about the job and his business before he hired him. He kept Mr. Banga and agreed to let him do other things even after learning he did not know how to cook. Mr. Banga worked as part of the team. He was not a good employee but he never forced him to do anything he did not want to do.
- He was having health issues, as was his wife and son, so he did pay Mr. Banga to work overtime hours.
- He recorded a video of himself and Mr. Banga discussing overtime pay because he had become suspicious of Mr. Banga and wanted proof that he had paid him cash for his overtime hours. Security video footage shows Mr. Banga's son in the office more than once and leaving the office with papers in his hand. Mr. Banga's son says he went to the store to help his father but he knew nothing about the accounting or the till and he would not have needed to go into the office to help balance the till. Mr. Banga and his son are not trustworthy.
- He paid cash for overtime hours and also allowed Mr. Banga to bank hours for his trip to India.
- He believes Mr. Banga and his son may have been planning this sort of thing all along.

The Respondent's argument is summarized as follows:

- This is a case of 'he said, he said'.
- Based on the exhibits, Mr. Banga worked overtime hours and yet every pay stub shows he was paid for 80 hours.
- According to the Act, his overtime hours should have been paid at a rate of \$18 per hour (time and a half).
- Time cards were filled out on a daily basis.
- According to his time cards, he worked 207 overtime hours in a five-month period.
- There is no dispute that Mr. Banga worked overtime.
- The Wage Assessment should be upheld.

## **VI. ANALYSIS AND DECISION**

The amount claimed in the Wage Assessment is based on Dale Schmidt's Labour Standards Inspection Summary which breaks down outstanding wages as follows:

Wage Category	Quantity (Units)	x	Rate	=	Amount Owed
ANNUAL HOL PAY	0.057692 (3 WKS %)		\$3,726.00		\$ 214.96
OVERTIME	207 HR(S)		\$ 18.00		<u>\$3,726.00</u>
Total Amount Assessed					\$3,940.96

The parties agree Mr. Banga worked overtime hours. They also acknowledge they had an agreement whereby Mr. Jafri would pay Mr. Banga's overtime in cash. Mr. Jafri says he paid Mr. Banga cash for his overtime hours at his regular rate of pay (\$12 per hour) as part of their agreement. Mr. Banga acknowledges their agreement (cash for overtime) but says Mr. Jafri did not pay him for his overtime hours. He says he did not complain about not receiving overtime pay until after he was fired because he did not want to cause problems with his immigration process.

Subsection 2-7(3) of the Act requires an employer to pay an employee a minimum of 1.5 times the employee's hourly wage for overtime. Subsection 2-18(1) says that "an employer shall pay the employee overtime for each hour or part of an hour in which the employer requires or permits the employee to work or to be at the employer's disposal for more than...40 hours in a week." Section 2-6 of the Act states: "No provision of any agreement has any force or effect if it deprives an employee of any right, power, privilege or other benefit provided by this Part."

Mr. Banga worked overtime. It does not matter if Mr. Banga agreed to accept overtime pay at his regular rate of pay because the Act does not allow such an agreement to stand. The law is clear in this regard. Even if I accept that Mr. Jafri in fact made cash payments for overtime to Mr. Banga, at the very least, Mr. Jafri owes Mr. Banga the extra half hour pay for every overtime hour worked.

The most troubling aspect of this case is that Mr. Jafri says he paid Mr. Banga's overtime pay (albeit at the incorrect rate of pay) in cash. Mr. Banga says he received no cash for overtime hours. Somebody is lying. After another employee complained to Employment Standards, Mr. Jafri became suspicious of Mr. Banga and tried to get him to acknowledge that he had in fact been paid cash for his overtime hours. Although Mr. Jafri videotaped a discussion between himself and Mr. Banga discussing their agreement, it only establishes they had an agreement – not that Mr. Banga acknowledged receiving a specific amount of cash for overtime hours. Mr. Jafri also tried to get Mr. Banga to sign off on his termination letter and pay as proof of payment in full but Mr. Banga refused to sign.

While some jurisdictions recognize cash as a valid method of payment for wages, our Act excludes cash as a recognized method of payment of wages. The relevant portions of section 2-35 state:



2-35(1) An employer *shall pay all wages* to an employee:

- (a) in Canadian currency;
- (b) by cheque drawn on a bank, credit union or trust corporation;
- (c) by deposit to the employee's account in a bank, credit union or trust corporation; or
- (d) by a prescribed means."

2-35(4) *Any agreement between an employer and employee that allows for payment of wages in any other manner than that set out in subsection (1) is void.*" (emphasis added)

Because of its very nature, cash payments are difficult to prove. In some jurisdictions, cash is accepted as a form of payment for wages. For example, in Alberta's *Employment Standards Code* and in Ontario's *Employment Standards Act*, cash is accepted as a method of payment for wages in addition to cheque or deposit. However, Saskatchewan's Act does not recognize cash as a valid method of payment for wages. Our Act says an agreement to pay and/or accept cash for wages is void. Apparently, our legislature intended to avoid the problems inherent with cash payments by excluding cash as a valid method of payment for wages.

According to the Act, Mr. Jafri and Mr. Banga's agreement for payment of overtime hours in cash is void. Because the agreement is void and because the Act does not recognize cash as a valid manner of payment for wages, even if I accept Mr. Jafri's version of events, Mr. Banga was not paid wages for overtime hours in accordance with the Act. In any event, my analysis of the evidence provided by the parties with respect to cash payments for overtime wages is set out below in case I am incorrect regarding the effect of section 2-35 on this appeal.

Mr. Jafri does not accept the number of overtime hours claimed by Mr. Banga. He says the numbers might be inflated. He does not know how many overtime hours Mr. Banga worked because he no longer has Mr. Banga's original timesheets in his possession. He believes Mr. Banga and his son stole the timesheets, tampered with his computer system and then potentially altered the copies of the timesheets they took by camera phone. Even if the timesheets were not altered, they are almost illegible. Mr. Jafri does not know how much cash he paid Mr. Banga but knows he paid everything he owed. In his closing argument, Mr. Jafri also said he allowed Mr. Banga to bank overtime hours for a trip to India. Mr. Jafri provided no details regarding how many overtime hours were banked and/or used by Mr. Banga.

Mr. Banga says he did not take the timesheets. He took pictures of the timesheets so he had would have proof of his hours. He says he did not tamper with the timesheets and stands by the overtime hours revealed by the copies of the timesheets taken by camera

phone and introduced at the hearing. He says he received no cash payments for overtime even though this was the agreement he had with Mr. Jafri.

Mr. Jafri was able to poke holes in Mr. Jaspreet Banga's testimony regarding his unauthorized entrance into Kaposvar Esso's office on more than one occasion. Mr. Jaspreet Banga testified that he never entered the office without Mr. Jafri being present but the video clips played by Mr. Jafri clearly show Mr. Jaspreet Banga entering the office while his father guards the office door on two separate occasions in May of 2015. In light of this discrepancy, and the fact that I believed Mr. Jafri when he said he paid Mr. Banga in cash, I have some concerns regarding the veracity of Mr. Banga's statement that he received no cash from Mr. Jafri for overtime pay.

Unfortunately for Mr. Jafri though, I have no evidence, documentary or otherwise, to show how much money he paid Mr. Banga for overtime. Under the Act, it is Mr. Jafri's responsibility to keep adequate records of the terms of employment. Section 2-38(1) states:

"No employer shall fail to keep:

- (a) records showing the particulars of every unwritten contract dealing with wages or other monetary benefits to which any employee is entitled;
- (b) ...
- (c) records showing the following with respect to each employee:
  - ...
  - (iv) the total wages paid to the employee for each week or other pay period;
  - (v) the time when the employee's work begins and ends each day and the time when any meal breaks allowed to the employee each day begin and end;
  - (vi) the total number of hours worked by the employee each day and each week as well as the total number of hours each day and each week that the employee is required to be at the disposal of the employer;
  - ...
  - (viii) the date of each payment of wages to the employee."

I do not know what happened to Mr. Banga's original timesheets. On the balance of probabilities, there is not enough proof to establish the Bangas stole Mr. Banga's original timesheets or that Mr. Jaspreet Banga deleted any documents from Mr. Jafri's computer system. There is no proof the Bangas tampered with the copies of the timesheets either. As the employer, Mr. Jafri ought to have had other information he could draw upon. He ought to have been able to testify (or call someone else to testify) about Mr. Banga's hours of work. It is his responsibility to know the hours worked by his employees and the wages paid by him.

Further, this is Mr. Jafri's appeal. Because a Wage Assessment was issued, Mr. Jafri has the onus of showing me that it is incorrect. Without evidence to the contrary, the Wage Assessment is proof of the amount owing (ss. 2-75(9)). Mr. Jafri was able to identify potential problems with the evidence supporting the Wage Assessment (missing original timesheets and credibility concerns) but he did not provide evidence to contradict it. He provided no specifics regarding the number of hours worked by Mr. Banga or the amount of wages he paid to Mr. Banga in cash. All he was able to say is that he paid him everything he was owed. This is not very helpful. Without satisfactory evidence from the employer regarding hours worked or wages paid, I am unable to set aside the Wage Assessment. As the Appellant, the onus was on Mr. Jafri to prove the merits of his appeal which he failed to do.

If Mr. Jafraz and Mr. Banga agreed that Mr. Banga could bank his overtime hours to use for his trip to India, this is something that would have been allowed in accordance with subsection 2-18(3) of the Act. In order to establish overtime hours were banked and used, and in effect paid, records ought to have been kept and/or testimony as to the particulars of the banking arrangement ought to have been offered. The parties led no evidence regarding banking of hours. If Mr. Banga banked overtime hours for a trip to India, how many hours did he bank and how many of those hours did he use? These questions were not answered by the evidence and therefore I cannot find that any of Mr. Banga's overtime hours were banked and used in accordance with the Act. The unfortunate result for Mr. Jafri is that I cannot credit him for any banking of overtime hours.

At the end of the day, we have a Wage Assessment that is based on copies of timesheets provided by the employee. Mr. Banga took pictures of his timesheets on two separate phones, printed the pictures and entered them into evidence. Although Mr. Jafri does not accept these copies as accurate or reliable, this is the only evidence of Mr. Banga's hours presented during the hearing. The printouts are a bit difficult to read but they are the best evidence we have in this case. According to his timesheets, Mr. Banga worked a total of 207 overtime hours over a five-month period. Mr. Banga's paystubs show he was paid for his regular hours of work. Mr. Jafri says he paid Mr. Banga 'everything he was owed' but this is insufficient. The onus was on Mr. Jafri to show he paid all wages owing to Mr. Banga. Mr. Jafri was unable to say how much cash he paid to Mr. Banga or to provide any evidence to corroborate the payments. Ultimately, the agreement to pay overtime hours at a regular rate of pay and in cash is void under the Act. Based on the evidence, the Wage Assessment must stand.

## **VII. CONCLUSION**

The appeal is dismissed and the Wage Assessment is upheld.

The Appellants must pay \$3,940.96 to the Respondent.

DATED in Regina, Saskatchewan, this 19<sup>th</sup> day of July, 2016.



Jodi C. Vaughan  
Adjudicator

The Parties are hereby notified of their right to appeal this decision pursuant to Sections 4-8, 4-9 and 4-10 of *The Saskatchewan Employment Act* (the "Act").

The information below has been modified and is applicable only to Part II and Part IV of the Act. To view the entire sections of the legislation, the Act can be accessed at [www.saskatchewan.ca](http://www.saskatchewan.ca).

**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.

(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 persons mentioned in clause 4-4(1)(b) who received the notice setting the appeal or hearing.

(4) The record of an appeal is to consist of the following:

- (a) in the case of an appeal pursuant to Part II, the wage assessment or the notice of hearing;
- (c) the notice of appeal filed with the director of employment standards pursuant to Part II;
- (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

**Appeal to Court of Appeal**

4-9(1) With leave of a judge of the Court of Appeal, an appeal may be made to the Court of Appeal from a decision of the board pursuant to section 4-8 on a question of law.

(2) A person, including the director of employment standards, intending to make an appeal to the Court of Appeal shall apply for leave to appeal within 15 business days after the date of service of the decision of the board.

- (3) Unless a judge of the Court of Appeal orders otherwise, an appeal to the Court of Appeal does not stay the effect of the decision being appealed.

**Right of director to appeal**

**4-10** The director of employment standards has the right:

- (a) to appear and make representations on:
  - (i) any appeal or hearing heard by an adjudicator; and
  - (ii) any appeal of an adjudicator's decision before the board or the Court of Appeal; and
- (b) to appeal any decision of an adjudicator or the board.