

IN THE MATTER OF AN ADJUDICATION  
PUSUANT TO SECTION 2-75 AND 4-6 OF  
THE SASKATCHEWAN EMPLOYMENT ACT



**Appellants:**

1012138737 Saskatchewan Ltd. o/a Piggy's Pub & Grill and Colette Lesa McCallum, being a  
Director of 1012138737 Saskatchewan Ltd. o/a Piggy's Pub & Grill

**Respondents:**

Director of Employment Standards;

**Date of Hearing:** May 25, 2017  
**Via telephone conference call**

## Decision

This is an appeal of Wage Assessment #8561 in the amount of \$181.56. Craig McCallum and Colette McCallum gave evidence on behalf of the appellants. Adam Farion represented the Director of Labour Standards.

Prior to the hearing an agreed statement of facts was presented by the parties. The parties agreed to the following facts:

1. 101213837 Saskatchewan Ltd. o/a Piggy's Pub and Grill is a registered company in the Province of Saskatchewan and Colette Lesa McCallum is the sole named Director. (See Appendix-Sask. Corp. Registry profile Report Pages 1-2)
2. Samantha Cromarty was an employee of Piggy's Pub and Grill
3. Samantha Cromarty's final pay stub dated 20-January-2017 for the net value of \$181.56 is the amount indicated in the Wage Assessment (see Appendix- Paystub and timesheet Pages 3-4)
4. On December 24, 2016- there was a VLT shortage of \$129.90 as indicated in writing from Colette McCallum (see Appendix Page 5)
5. On Dec 27, 2016 Samantha Cromarty signed a note indicating she owes \$129.90. A cash payment of \$10.00 was made. (see Appendix-Page 6)
6. Page 15 of the Employment Standards, Rights and Responsibilities Guide is quoted in the grounds for appeal (see Appendix-Page 7) and is in reference to The Saskatchewan Employment Act, Section 2-36 (See Appendix- Page 8)

At the hearing Craig McCallum and Colette McCallum claimed that Samantha Cromarty owed a debt of \$129.90 to 1012138737 Saskatchewan Ltd. o/a Piggy's Pub & Grill (the 'employer'). They each testified that Samantha Cromarty acknowledged that debt in two ways; by signing a document and by making a partial repayment of \$10.00.

It is clear in law that an employer that believes it is owed money cannot simply make a deduction from the employee's pay cheque. Only certain payroll deductions are permitted by *The Saskatchewan Employment Act*.

If the debt is legitimate (and I make no comment on whether or not this alleged debt is), then the employer's remedy is to take the employee to Small Claims Court where a Judge can hear evidence and make a determination. If the employer believes a crime has been committed, the employer is free to make a report to the police.

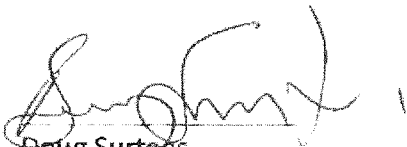
In this case Craig McCallum and Colette McCallum claim that this employee actually purchased a 'commodity' from the employer and therefore the deduction from the pay cheque was authorized by *The Saskatchewan Employment Act*. They cited a booklet titled 'Rights and Responsibilities' (published by the Ministry) which refers to 'voluntary employee purchases from the employer for any goods, services or merchandise' as an allowable deduction from wages. This is a permissible deduction under *The Saskatchewan Employment Act*. The employer's argument is that this employee 'purchased' a

'commodity' from the employer. The commodity was allegedly purchased was money in the amount of \$129.90. With all due respect, this is nonsense. The employee did not purchase \$129.90 in Canadian money with \$129.90 in Canadian money, if such a thing is even possible. The deduction of a debt claimed to be owed, in the absence of an actual purchase from the employer, is exactly what *The Saskatchewan Employment Act* prohibits. If I were to accept the employer's argument, I would be doing the opposite of what the legislation requires.

**Conclusion:**

The appeal is dismissed. Wage Assessment # 8561 in the amount of \$181.56 is hereby confirmed.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 5<sup>th</sup> day of June, 2017.



Doug Surtees  
Adjudicator

The Parties are 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 viewed 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.

(2) A person who is directly affected by a decision of an Adjudicator on an appeal pursuant to Part III 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 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;

(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, 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 or the adjudicator's decision or order with any directions that the board considers appropriate.

**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 or the director of occupational health and safety, 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 and the director of occupational health and safety have 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.