

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



Appellants:

Kusina Restaurant Ltd.;  
Frances Javier-Fawcett, being a director of Kusina Restaurant Ltd.; and  
Marylin Fuentes, being a director of Kusina Restaurant Ltd.

Respondents:

Darren Clark, and Director of Employment Standards

Date of Decision: July 9, 2018

[1] Wage Assessment # 9096 was issued by the Director of Employment Standard's Delegate on February 28, 2018. It directed Kusina Restaurant Ltd.; Frances Javier-Fawcett, being a director of Kusina Restaurant Ltd.; and Marylin Fuentes, being a director of Kusina Restaurant Ltd. to pay Darren Clark the sum of \$343.21.

[2] On April 3, 2018, the last day of the appeal period, Kusina Restaurant Ltd., Ms. Javier-Fawcett and Ms. Fuentes, appealed this Wage Assessment. They provided a cheque payable to the Minister of Finance in the amount of \$343.21.

[3] Ms. Javier-Fawcett represented the appellants. The respondent Darren Clark represented himself. Doug Long was the Director's delegate in this matter. He did not represent Mr. Clark.


[4] While I was communicating with the parties, their representatives confirmed that they had mutually agreed to settle this appeal for \$250.00.

[5] Since the appellants made a deposit of \$343.21, once Mr. Clark has received \$250.00, the appellants are entitled have the remaining \$93.21 returned to them.

**Conclusion:**

[6] Wage Assessment #9046 is confirmed in the amount of \$250.00.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 9<sup>th</sup> day of July, 2018.



Doug Surtees  
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 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 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, 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.