

DECISION OF ADJUDICATOR
IN THE MATTER OF AN APPEAL
PURSUANT TO SECTION 2-75 WITH RESPECT TO A DECISION OF
AN EMPLOYMENT STANDARDS OFFICER PURSUANT TO
THE SASKATCHEWAN EMPLOYMENT ACT,
R. S. S. S-15.1 (as amended)

APPLICANT: Finn Construction Ltd.

RESPONDENT: Brodie MacDonald

and

Director of Labour Standards
Ministry of Labour Relations and Workplace Safety

DATE OF HEARING: November 22, 2017 – January 12, 2018

PLACE OF HEARING: Saskatoon, Saskatchewan



I. **REVIEW OF HEARING AND ISSUES**

This is an appeal by Finn Construction Ltd. with respect to a Wage Assessment issued by the Respondent, the Director, Employment Standards Branch, Ministry of Labour Relations and Workplace Safety, on August 10, 2017. The Wage Assessment required the Applicant to pay Brodie MacDonald the sum of \$3,627.69 representing unpaid wages to Brodie MacDonald. The Wage Assessment was prepared pursuant to s. 2-74 of *The Saskatchewan Employment Act*, ROSS. S-15.1 (as amended).

The hearing on the matter commenced on November 22, 2017 and was to be continued at a later date, to be determined. The Applicant was represented by Matt Finn, an owner and director of Finn Construction Ltd. Present for the Respondent at the Hearing was Shelley Stretch, Department of Employment Standards. Ms. Stretch also appeared on behalf of the employee Brodie MacDonald.

No evidence was heard on November 22, 2017. The purpose of this portion of the hearing was to canvass preliminary issues. For example, some of these issues were whether or not parties could testify via teleconference, and the possibility of having separate hearings regarding each employee on the Wage Assessment. Finn Construction Ltd. was also requesting a continuance of the hearing to a date in early 2018. This was due to the company's current work commitments. A new date of January 4, 2018 was set. Ms. Stretch indicated that she could not commit the employee to that date until she communicated with him. As it turned out, he was not available due to commitments with his new employment, nor did he wish to appear via teleconference.

After protracted discussions regarding a potential new date, Matthew Finn, on behalf of Finn Construction Ltd., indicated that the Appellant was withdrawing its appeal. This was communicated to the parties and myself on January 12, 2018.

II. CONCLUSION

Accordingly, the appeal is dismissed and the Wage Assessment is hereby upheld.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 7th day of February 2018.



Leslie T.K. Sullivan, Q.C.
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.

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;
 - (b) to appeal any decision of an adjudicator or the board.