ADDENDUM TO DECISION OF ADJUDICATOR IN THE MATTER OF AB ADJUDICATION PURSUANT TO SECTION 2-75 and 4-6 OF THE SASKATCHEWAN EMPLOYMENT ACT WAGE ASSESSMENT No. 8787



LRB FILE No. 252-17

In my June 11, 2018 decision I requested the parties (Jacob Sauter and B and W Construction) to attempt to reach agreement on the amount of unpaid travel time and involuntary deductions. They were given a deadline of 5:00 p.m. June 30, 2018 to either reach a settlement or I would impose.

On June 25, 2018 I contacted the parties to see where they were at in the process and was advised that Mr. Schmidt had not received the June 11 decision. In response to a request for an extension, I did move the deadline to 5:00 p.m. July 4, 2018.

On July 3, 2018 I received the positions from the parties and those are summarized as follows:

Mr. McConnell's position is that, regarding the involuntary deduction ER1 clearly shows \$700 deducted for the truck impound fine, \$600 for missing fuel and \$200 for missing tools. Therefore Mr. Sauter is owed \$1500.00.

For travel time Mr. McConnell cites me as assessing 5 to 6 hours a week. From that he uses 15 weeks for an average with 5 hours a week travel time. This produces a figure of \$1500.00 (15 weeks X 5 hours X \$20/hr).

The Ministry's position for the Wage Assessment is \$ 3000.00 total for the two issues.

B and W Construction provided a spread sheet (attached). Regarding the involuntary deductions, B and W's position is that Mr. Sauter agreed to the impound fees and the missing fuel cost in exchange for not being charged for theft. The Company agrees Mr. Sauter is owed \$200.00 for the tool deduction.

Respecting travel time, although the spread sheet shows some estimates of time between Milestone and work sites, the Company argues Mr. Sauter's late reporting off-sets all travel time save one day.

Analysis:

The July 3, 2018 Spread Sheet from B and W is flawed. First of all, only one-way times are showed, secondly trips are missed. For example, on September 30 and October 7 the spread sheet shows Mr. Sauter at Storthoakes in a trailer but no travel time to get there from Milestone. Mr. Schmidt's diary (EE9) shows that travel. On October 26, Mr. Sauter is in Pense but no travel time is shown. The sheet also shows from November 1 to 8 travel time to Bethune as 30 minutes. In reality it takes about an hour. Another example is November 27 where the sheet shows Mr. Sauter traveling with "ralf" but no travel time is shown.

Decision:

Regarding involuntary deductions Section 2-36 (1) is clear "an employer shall not, directly or indirectly: a) make any deductions from wages that would be otherwise payable to the employee; or c) require an employee to return to the employer the whole or any part of any wages paid."

Any recovery of monies from Mr. Sauter would need other legal means, therefore, B and W Construction owes Mr. Sauter \$1500.00 for the involuntary deductions in November of 2016.

Moving to the travel time issue, I need to correct Mr. McConnell on his reading of my June 11, 2018 decision. It was Mr. Schmidt that testified that travel time may be 5 or 6 hours a week.

Having reviewed both Mr. Schmidt's diary and the July 3 spread sheet it is difficult to produce an accurate number for Mr. Sauter's unpaid travel time. With all due respect, the July 3 spread sheets fraught with errors and under estimations. It also appears to contemplate only one way.

However, by using that spread sheet and Mr. Schmidt's diary, along with some realistic travel time estimates, I assess B and W Construction 48 hours of unpaid travel time. At \$20/hr. Travel time owed is \$960.00.

Total Wage Assessment owed is \$2460.00.

Dated at Regina, Saskatchewan, this 5th day of July, 2018

Ralph Ermel Adjudicator

Attachment:

July 3, 2018 B and W Spread Sheet

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