



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.

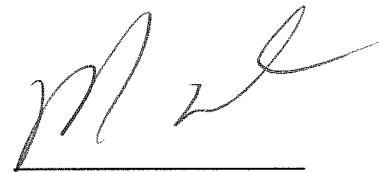
Moving to the travel time issue, I need to correct Mr. McConnell on his reading of my June 11, 2018 decision. It was Mr. Schmidt that testified that travel time may be 5 or 6 hours a week.

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

A handwritten signature in black ink, appearing to read 'R. Ermel', written over a horizontal line.

Ralph Ermel
Adjudicator

Attachment:

July 3, 2018 B and W Spread Sheet

date	desc.	Reported to WORK@	hours	dif	\$ - OWED	PAID		totals	hours	dif	\$ - OWED	PAID
sept 1					0							
2					0							
3					0							
4					0							
5					0							
6					0							
7					0							
8					0							
9					0							
10					0	-200	cash					
11					0							
12	Tessier	Job Site - 20mins from Jacobs house	10		200							
13	Tessier	Job Site - 20mins from Jacobs house	6		120							
14	sick		0		0							
15	manure	Job Site - 20mins from Jacobs house	10		200	-150	cash					
16	manure	Job Site - 20mins from Jacobs house	10		200							
17	manure	Job Site - 20mins from Jacobs house	7		140	-200	cash					
18	manure	Job Site - 20mins from Jacobs house	7		140			50				
19	manure	Job Site - 20mins from Jacobs house	9		180							
20			3		60							
21					0	-20						
22	OVERTIME		5		100							
23					0	-200						
24	no work - rain				0							
25	shop work	shop - 5 mins from his house 10	3		60			20				
26					0							
27	rm scott	Job Site - 10mins from Jacobs house 20	10		200							
28	rm scott	Job Site - 10mins from Jacobs house 20	8		160							
29	sat @ home				0							
30	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site 10	4		80	-100			92	0	1840	-870
Oct 1	rock truck - got stuck 1st	Jobsite - Camper brought to comp ground 5 mins from site 10	1		20		went to regina in company truck					
2	rock truck	Jobsite - Camper brought to comp ground 5 mins from site 10	5		100			28				
3	no work - rain				0	-1500	greg paid - bank draft					
4					0	-100	stacey - signed in					
5					0							
6					0							
7					0							
8					0							
9					0							
10	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site 1	8		160							
11	stoughton	Jobsite - Camper brought to comp ground 5 mins from site	5		100							
12	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160							
13	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160	-100	cash					
14	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160							
15					0							
16					0			37				
17	no work				0	-600	trnsfer					
18	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site 5 hrs	8		160							
19	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160							
20	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160	-200	cash					
21	storthoaks	Jobsite - Camper brought to comp ground 5 mins from site	8		160							
22	no work - went to saskatoon				0	-200	from greg					
23					0			32				
24					0							
25					0							
26	pense	no travel time - hauled equipemtn picked up by friend (the magician) on site 2 hrs	1		20							
27					0							
28	pense	Lang - 45 mins came with Brother - back roads 1.5 hrs	9		180	-20	stacey - signed in					
29					0	-100	cash					

8x.5 = 4x2 = 8hrs

Month	Day	Description	Hours	Rate	Total	Type	Balance	Other	Total
	30				0		10		
	31	moose jaw			0	-600	cash	85	0 1700 -3420
Nov	1	bethune Job Site - 30 mins - working for Stacey	9	180					
	2	bethune Job Site - 30 mins - working for Stacey	3	60					
	3	bethune Job Site - 30 mins - working for Stacey	5	100	-1000	cash			
	4	bethune Job Site - 30 mins - working for Stacey	8	160					
	5	bethune Job Site - 30 mins - working for Stacey	9	180					
	6	bethune Job Site - 30 mins - working for Stacey	9	180			43		
	7	bethune Job Site - 30 mins - working for Stacey	10	200					
	8	bethune Job Site - 30 mins - working for Stacey	10	200					
	9	OVERTIME	1.5	30	-200	cash			
	10	storthoaks Jobsite - Camper brought to comp ground 5 mins from site	8	160					truck impounded @regina NO drivers License
	11	disappeared		0					
	12			0					
	13	storthoaks Jobsite - Camper brought to comp ground 5 mins from site	10	200			39.5		
	14	disappeared - no work		0	-40				
	15	storthoaks Jobsite - Camper brought to comp ground 5 mins from site	7	140	-25				
	16	storthoaks Jobsite - Camper brought to comp ground 5 mins from site	7	140					
	17	no work		0	-1000	cash			
	18			0					
	19			0					
	20			0					
	21			0			14		
	22			0					
	23	goodwin Job Site - 20mins from Jacobs house	5	100	-1500	700 impound fee for truck			
	24	goodwin Job Site - 20mins from Jacobs house	6	120	-20	600 fuel missing from slip tank			
	25	goodwin Job Site - 20mins from Jacobs house	6	120	-60	200 tools missing from truck			
	26	goodwin Job Site - 20mins from Jacobs house	4	80		cash			
	27	riding with ralf not working		0			21		
	28	gerrys sitting Stay in Hotel "Stoughton Hotel" - 10 min to site	8	160					
	29	disappeared		0	-100	cash			
	30	sit on site-no work Stay in Hotel "Stoughton Hotel" - 10 min to site		0				125.5	0 2510 -3945
Dec	1	stoughton-no work Stay in Hotel "Stoughton Hotel" - 10 min to site		0					
	2	stoughton Stay in Hotel "Stoughton Hotel" - 10 min to site	8	160	-50	cash			
	3	disappeared		0					
	4			0			16		
	5			0					
	6	Dillion drove to weyburn		0					
	7	lang house - no work		0	-500	cash			
	8	moving hoes was at Shop @ 8am - shop - 5 mins from his house left shop @ 2pm	6	120					
	9	<-30> no work		0					
	10	fixing 350 Working @ Shop shop - 5 mins from his house	5	100					
	11			0			11		
	12	lang house - no work		0					
	13			0					
	14			0					
	15			0					
	16			0					
	17			0					
	18			0					
	19	george rd Stay in Hotel "Stoughton Hotel" - 10 min to site	6	120					
	20			0					
	21			0					
	22	sidlers Job Site - 20mins from Jacobs house	5	100					
	23	moved hoe to paslaski Job Site - 20mins from Jacobs house	3	60	-1000	damage to building with Hoe			
	24	NO WORK		0		cash			
	25	NO WORK		0			14		
	26	NO WORK		0					
	27	no work		0					
	28	started @ 1pm Job Site - 20mins from Jacobs house	8	160					
	29	darrels Job Site - 20mins from Jacobs house	9	180					
	30		3	60					
	31	no work		0	-200	cash		53	0 1060 -1750
jan	1	no work		0			20		
	2	no work		0					
	3			0					
	4			0					

5 hrs

80x2 = 160 (3 hrs)

4 hrs

2 hrs

2 hrs

160

160

3 hrs

5				0						
6				0						
7				0		300				
8				0						
9				0						
10				0						
11				0						
12				0						
13				0						
14				0						
15				0						
16	goodwin	Job Site - 20mins from Jacobs house	8	160						
17				0		-200				
18			1m	0						
19				0						
20				0						
21				0						
22				0		-120		8		
23				0						
24				0						
25				0					8	0
26				0						160
										-620
					7270	-10605		363.5	363.5	0
									7270	-10605

Total 48 hours