



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)***

APPELLANT: Willow Point Financial Services Limited and Rebecca May-Gorges

RESPONDENT: Angela Sandin

and

Director of Labour Standards
Ministry of Labour Relations and Workplace Safety

I. **Introduction**

1. The employer, Willow Point Financial Services Limited and Rebecca May-Gorges (hereinafter referred to as "Willow Point") sought to appeal the Wage Assessment of September 9, 2019 requiring Willow Point to pay \$1,258.54 with respect to unpaid wages to the employee Angela Sandin.
2. The Wage Assessment was served on Willow Point on September 16, 2019.
3. The Notice of Appeal was received by Employment Standards on September 17, 2019. I was appointed Adjudicator to hear this Appeal.
4. As of October 9, 2019, Willow Point had not paid the deposit of \$500. This is beyond the requisite 15 days.

II. Jurisdictional Issue

5. The Wage Assessment, which is a standard form, states:

You are hereby directed to pay the total amount claimed within 15 business days after the date of service of this wage assessment or commence an appeal pursuant to section 2-75 of The Saskatchewan Employment Act. If you do not appeal this Wage Assessment to the Director of Employment Standards within 15 business days and if you do not remit the required deposit with your appeal (see section 37 of The Employment Standards Regulations) the Wage Assessment will become a judgment against you.

6. Attached to the Wage Assessment is the relevant legislation and, in particular, section 2-75 of The Act. The Notice of Appeal and the deposit (in this case \$500) must be received within 15 business days.
7. An Adjudicator has the jurisdiction to hear the Appeal only if the requirements of section 2-75 of *The Act* are met. There is no provision in *The Act* or *The Regulations* for an application to extend time limit.
8. This issue was canvassed by Adjudicator Anne Wallace, Q.C., in *Brady v. Jacobs Industrial Services Ltd. and Director Occupational Health and Safety, Ministry of Labour Relations and Workplace Safety*, 2016 CanLII 49900 (SK LA) ["Brady"] on August 1, 2016.
9. In paragraph [53] of that decision, Adjudicator Wallace states, in summary:

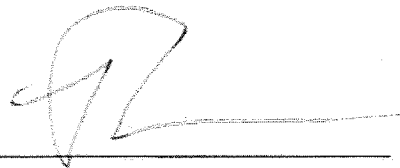
When the Saskatchewan Employment Act came into effect, the case law was clear that time limits are to be interpreted as mandatory and relief against failure to meet a time limit is not available unless expressly stated in the Act. If the legislature intended there be any relief from the time limit {for appeal} ...it could easily have included an express provision. Indeed, where the legislature intends to provide jurisdiction to waive or extend time limits, it does so expressly... For example, the legislature has provided specific authority for the Court of Queen's Bench to extend the time for making an application to set aside an order or judgment.

10. Adjudicator Wallace concluded that if the legislature did not give any similar power to an adjudicator to extend the time limits, the Adjudicator cannot imply such authority.
11. The decision of Adjudicator Wallace is also referred to at para. [37] and [38] in the decision of *The Director of Employment Standards v. Black Gold Boilers Ltd., Loren Anderson, Gloria Pawluck and Raymond Roen* LRB File No. 049-16; December 2, 2016.

III. Conclusion

12. The *Saskatchewan Employment Act* and *Regulations* require that both the Notice of Appeal and the \$500 deposit be received by Employment Standards within the 15-day deadline. *The Saskatchewan Employment Act* and *Regulations* do not provide for any mechanism by which the 15-day requirement can be extended. If these requirements are not met there is no power or authority to extend the deadline. The result is that an Adjudicator has no jurisdiction to hear the Appeal.
13. The appeal is therefore a nullity.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 7th day of November 2019



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.