



DECISION OF ADJUDICATOR
IN THE MATTER OF AN ADJUDICATION PURSUANT TO SECTION 2-75
AND 4-6 OF THE SASKATCHEWAN EMPLOYMENT ACT

APPELLANT: Green Diamond Lawncare
Denise and Micheal Myers, Directors

Respondent: Christopher Achtymichuk
Tanya Turgeon, Director's Delegate

Wage Assessment No. 1-008597

LRB File No. 056-23

Introduction:

I was appointed adjudicator on June 27, 2023. On July 3, 2023, I contacted the Ministry and requested relevant documents that would enable me to establish jurisdiction as per sections 2-74, 2-75(2) and (3).

Documents Received:

The documents listed are in chronological order:

1. March 10, 2023, Green Diamond's written appeal and deposit of \$500.00 are received by the Ministry.
2. March 27, 2023, wage Assessment No. 1-008597 (dated March 21, 2023) received by Green Diamond Lawncare director, Denise Myers.
3. April 3, 2023, e-mail from Allysia Finn, Employment Standards Officer, to Green Diamond Lawncare director, Micheal Myers.
4. April 5, 2023, return e-mail from Micheal Myers to Allysia Finn.

Discussion:

Clearly the Ministry received both the Appellant's written appeal and deposit before the wage assessment was issued. In fact, 10 business days before.

In her e-mail of April 3, Ms. Finn states "As discussed, please advise if you wish for your appeal, submitted March 10, to be applied to the Wage Assessment 1-00607, received by yourself March 27th."

Mr. Myers response sent on April 5 states "This is confirmed that the appeal is for this account. Not sure why the numbers changed again but really drives home the point that appeal is needed".

In response to a question put to the Ministry by e-mail, the response was that the Ministry would accept April 5 as the receipt date rather than the actual date of receipt of March 10.

On July 11, 2023, I e-mailed the Appellant, the Respondent and the Ministry indicating that I was wrestling with jurisdiction and requested further input to assist me in deciding. I asked that any input be communicated to me by close of business July 21, 2023.

I did not receive any input.

Issue to be Determined:

Does the Act allow the parties to alter the date of receipt of an appeal and/or a deposit?

Sections 2-74(7) and 2-75(2) and (5) clearly set out the parameters for issuing a wage assessment and the commencement of an appeal. Upon receipt of a wage assessment, the recipient, if appealing, has 15 business days to provide the Director with a written appeal and deposit.

In this case, the appeal and deposit were received by the Ministry 10 business days BEFORE the wage assessment was received by the Employer.

If I were to accept the Ministries proposition that the appeal and deposit were received on April 5, that would put the receipt well within the 15 business day window.

I need to note here that the Wage Assessment number quoted by Ms. Finn in her April 3rd e-mail is not the correct number. She used No. 1-00607, when the actual Wage assessment No. is 1-008597. I believe Mr. Myer's e-mail reflected some confusion as he was "not sure why the numbers changed".


Decision:

My read of the sections 2-74, and 2-75 of the Act are clear and to me, do not contemplate the manipulation of the dates of receipt of a wage assessment and the subsequent appeal period.

The appeal document and deposit receipt are both date stamped March 10, 2023. My interpretation of the Act is that a simple agreement between the Ministry and the Employer cannot change that date to April 5, 2023, to meet the wage assessment time frame.

Therefore, my decision is that I do not have jurisdiction to proceed with this appeal.

Dated at Regina, in the Province of Saskatchewan, this 24th day of July 2023.


Ralph Ermel
Adjudicator