



IN THE MATTER OF AN ADJUDICATION
PUSUANT TO SECTION 2-75 OF
THE SASKATCHEWAN EMPLOYMENT ACT

BETWEEN

Amroth Builders Ltd. and Ian Dodd

(Appellants)

And

Director of Employment Standards and Jean Bosco Ndikumukizaa

(Respondents)

Date of Hearing: November 27, 2024

Date of Decision: November 28, 2024

1. I was appointed to adjudicate LRB file number 127-24 by the Registrar of the Labour Relations Board on November 15, 2014.
2. LRB file number 127-24 relates to an appeal of Wage Assessment 1-000818 with file number 1-011207 dated May 23, 2024 ('the Wage Assessment'), by Amroth Builders Ltd. The Wage Assessment is in the amount of \$2,852.50.
3. After being selected as the adjudicator I communicated with the parties by email and arranged for a hearing to be held via Zoom on November 27, 2024 at 11:00 AM for the purpose of setting a date for the hearing to be argued. Mr. Dodd expressed that he was not familiar with Zoom, so I arranged to telephone him at the time of the meeting.
4. Approximately 2.5 hours prior to the start of this hearing, Ms. Finn, representing the Director, sent an email to myself and Mr. Dodds indicating that she was raising a preliminary objection to my jurisdiction.
5. I contacted Mr. Dodd by phone immediately prior to opening the 11:00 AM hearing. Once the Zoom meeting opened, I confirmed that all parties could hear each other.
6. In addition to myself, the meeting attendees were Ms. Finn representing the Director, Mr. Dodd representing Amroth Builders Ltd. and himself, and Mr. Jean Bosco Ndikumukiza representing himself.
7. At the start of the hearing I determined that I should consider the Director's preliminary objection to my jurisdiction prior to setting a date to hear the appeal.
8. *The Saskatchewan Employment Act* (the 'Act') provides for an appeal of a Wage Assessments at sub-section 2-75 (1) which reads as follows:

(1) Any of the following may appeal a wage assessment:

(a) an employer or corporate director who disputes liability or the amount set out in the wage assessment;

(b) an employee who disputes the amount set out in the wage assessment.

9. The Act establishes a limitation on this right to appeal. It is contained at sub-section 2-75 (1) which reads as follows:

(2) An appeal pursuant to this section must be commenced by filing a written notice of appeal with the director of employment standards within 15 business days after the date of service of a wage assessment.

10. The email from Ms. Finn indicating the Director's preliminary objection was received by me at 8:35 AM November 27, 2024. Presumably it was received by Mr. Dodd and Amroth Builders Ltd. at the same time, however at the time of the hearing Mr. Dodd had not checked his email. That email contained three attachments: the Director's Written Submission and two other documents, which I will label Exhibits 1 and 2.

11. The Director's submission with respect to jurisdiction is summed up in the final paragraph of the submission, which reads:

7. The Director submits that the employer failed to comply with the requirements of section 2-75(2) of the Act, which requires an employer (appellant) to file an appeal within 15 business days of service of the Wage Assessment. As a result, the Director submits that the appellant has not met the conditions to be eligible to appeal, therefore it is invalid and should be dismissed.

12. Exhibit 1 is made up of five pages. The first page contains electronic copies of two Canada Post Registered Mail receipts, each dated May 23, 2024. One receipt bears tracking number RN 498 927 870 CA (hereinafter '870') and indicates the item was addressed to 'Ian Douglas Dodd'. The other receipt bears tracking number RN 498 927 883 CA (hereinafter '883') and indicates the item was addressed to 'Amroth Builders'. Both receipts indicate the same street address in Regina.

13. The second page of Exhibit 1 is a document from Canada Post dated '2024/07/25' which is July 25, 2024. It indicates that the item with tracking number 870 was delivered '2024-05-31' which is May 31, 2024. It also indicates that the item was signed for, but the signatory requested the signature not be displayed on the Canada Post website.

14. The third page of Exhibit 1 is an undated document from Canada Post reporting the progress of the item with tracking number 870. It states that a 'Notice card' was left at 1:31 PM on May 27, indicating where the item could be picked up. It also states that the item was signed for and picked up on May 31 at 1:17 pm.

15. The fourth page of Exhibit 1 is the same as the second page except that it relates to the item with tracking number 883. It is a document from Canada Post dated '2024/07/25' which is July 25, 2024. It states that the item with tracking number 883 was delivered '2024-05-31' which is May 31, 2024. It also states that the item was signed for, but the signatory requested the signature not be displayed on the Canada Post website.

16. The fifth page of Exhibit 1 is the same as the third page except that it reports the progress of the item with tracking number 883. It states that a 'Notice card' was left at 1:31 PM on May 27, indicating where the item could be picked up. It also states that the item was signed for and picked up on May 31 at 1:17 PM.

17. Exhibit 2 consists of seven pages. The first is a copy of a cheque and a receipt. The cheque number is 000437. It bears the name 'Amroth Builders Ltd.' and is signed with what looks to be the name 'Ian Dodd'. It is made out to 'Employment standards' and is in the amount of \$500.00. The 're' line says, 'appeal 1-011207'. I note that this is the file number corresponding to the relevant Wage Assessment. It is dated 2024-06-25, which is June 25, 2024. The receipt bears the number ES 35690. It is from 'Government of Saskatchewan' and indicates payment of \$500.00 was received from 'Amroth Builders Ltd (Ian D Dodd)' on June 25, 2024 by cheque number 000437.

18. The second page of Exhibit 2 is a 'Payment Log Sheet' of Employment Standards. It indicates Amroth Builders Ltd. paid \$500.00 by cheque dated 'June 25/24' regarding Complaint # 1-011207 and was issued receipt number 35690. I note that the complaint number is the file number corresponding to the relevant Wage Assessment.

19. The third page of Exhibit 2 is a letter from Ian Dodd to the Director of Employment Standards dated 'June 25th 2024'. This appears to be a letter of appeal. It is date stamped 'Jun 25 2024'.

20. The fourth page of Exhibit 2 is a copy of the Wage Assessment indicating file number 1-011207. It directs Amroth Builders Ltd. and Ian Douglas Dodd to pay Jean Bosco Ndikumukiza \$2,832.50. It is dated May 23, 2024.

21. The fifth page of Exhibit 2 is a copy of a letter addressed to Ian Douglas Dodd dated May 23, 2024 from an Employment Standards Officer explaining that the 'attached' Wage Assessment must be paid, but that if Mr. Dodd disagreed with the Wage Assessment, he could appeal it withing 15 business days. The letter indicates that the writer attached excerpts from *The Saskatchewan Employment Act* and related regulations.

22. The sixth and seventh pages of Exhibit 2 are excerpts from *The Saskatchewan Employment Act* and related regulations.

23. Mr. Dodd does not dispute that he did receive notice of the Registered Mail and did pick up the Registered Mail. The documents filed by the Director indisputably

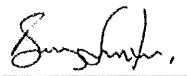
establish that Mr. Dodd and Amroth Builders Ltd. received notice of the Wage Assessment on May 31 at 1:17 PM when Mr. Dodd picked up the registered mail.

24. The documents filed by the Director also indisputably establish that Mr. Dodd and Amroth Builders Ltd. filed their appeal letter and the required deposit on June 25, 2024, which is significantly outside of the 15 business day limitation period.

25. Mr. Dodd says he is unsure of when he received notice of the Wage Assessment and when he submitted the appeal and deposit. He requested that I adjourn the hearing and reconvene it after he has had an opportunity to determine for himself whether he missed the relevant limitation period. I refused Mr. Dodd's request for an adjournment, because the evidence filed by the Director irrefutably establishes that Mr. Dodd and Amroth Builders Ltd. did attempt to file their appeal of the Wage Assessment significantly outside of the 15 business day limitation period. I see no reason to further delay payment to Mr. Ndikumukiza.

26. The appeal was not commenced within the statutory limitation period prescribed by subsection 2-75 (2) of the Act. As a result it is clear that I have no jurisdiction under *The Saskatchewan Employment Act* to hear this matter.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 28th day of November, 2024.



Doug Surtees
Adjudicator

The Parties are 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 viewed 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.

(2) A person who is directly affected by a decision of an Adjudicator on an appeal pursuant to Part III 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 or hearing pursuant to Part II, the wage assessment or the notice of hearing;

(b) in the case of an appeal pursuant to Part III, any written decision of an occupational health officer or the director of occupational health and safety respecting the matter that is the subject of the appeal;

(c) the notice of appeal filed with the director of employment standards pursuant to Part II or with the director of occupational health and safety pursuant to Part III, as the case may be;

(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 considers appropriate.

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 or the director of occupational health and safety, 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 and the director of occupational health and safety have 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; and

(b) to appeal any decision of an Adjudicator or the board.