



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

Shane Holliday

COMPLAINANT/EMPLOYEE

-AND-

SeedMaster Manufacturing Ltd. and Directors

APPELLANT/EMPLOYER

DATE OF HEARING: June 20, 2025

PLACE OF HEARING: Regina, Saskatchewan

LRB FILE: No. 096-25

WAGE ASSESSMENT: No. 1-000958

## **INTRODUCTION**

This matter was heard on June 20, 2025, in Regina, Saskatchewan.

I am satisfied there has been compliance with subsections 2-74(6), 2-75(2) and 2-75(3) of *The Employment Standards Act* (the 'Act'). Therefore, I have determined that I do have jurisdiction to hear this matter.

Allysia Finn, Employment Standards Officer ('ESO'), represented The Department of Employment Standards.

Allan Weins, Chief Executive Officer of the Employer represented the Corporation and all the Directors of the Corporation.

Devin Malakoff, Human Resources Manager, Greg Vennard, Director of Operations and Shelby Puchala, Director of Finance, gave sworn evidence on behalf of the Employer.

Shane Holliday, Employee attended and gave sworn evidence on his behalf.

The Wage Assessment was prepared pursuant to the Saskatchewan Employment Act s.s.2014 c.s-15.1, herein after referred to as "The Act" is for \$23,021.33.

## **I. PRELIMINARY MATTERS**

There were no preliminary matters raised by the parties.

## **II. AGREED FACTS**

The parties agreed as follows:

1. The employee was an employee of the Corporation.
2. The dates of employment of the employee were from October 23, 2023, to February 6, 2025.
3. The employee's rate of pay was \$85,000/year.
4. The employee's position in the Corporation was Production Supervisor.

### **III. EVIDENCE OF THE EMPLOYER**

Shelby Puchala was sworn and gave the following evidence:

She was the Director of Finance for SeedMaster Manufacturing Ltd and entered Employer Exhibit "1", which, on pages 2 and 3 set out the Employment Agreement between the Employee and the Company. Pages 4, 5 and 6 comprised the Notice of Termination of the Employee, dated February 6, 2025. The termination of the employee was without cause.

Page 7 sets out the final paystub for the final pay period of the employee showing 2 weeks severance paid to the employee for termination without cause.

Pages 9 and 10 set out the employee's job description and pages 8 and 11 show flow charts regarding the employee's status in the Corporation.

Ms. Puchala reviewed the exhibit stating, that page 9, set out a job description of the employee and she was of the view that the

employee had considerable discretion in his duties and had some 32 employees report to him on a daily basis.

Page 11 sets out the rates of pay for all of the employees shown on the flow chart to be under Mr. Holliday. The range of pay for those employees was from \$22.44/hour to \$35.20/hour, in addition to this hourly rate the employees would be paid \$2.50/hour extra while on a night shift and an additional \$2.50/hour for being a lead hand.

Mr. Holliday's pay was \$85,000/year, which was increased on September 4<sup>th</sup>, 2025, to \$91,500/year.

Pages 15 and 16 demonstrate that Mr. Holliday approved time sheets of the employees as part of his position and Ms. Puchala stated that the employee allocated work and authorized overtime for the employees in addition the employee approved time off requests.

Pages 17 to 23 showed some employees were evaluated by Mr. Holliday.

Pages 24 to 26 set out occasions with discipline was recommended by the employee to human resources.

Pages 28 and 29 are salary increase request forms signed by Mr. Holliday for various employees.

Pages 30 & 32 demonstrate Mr. Holliday could suggest hiring or extending probationary periods and suggest wages for new employees.

Page 34 on allege that Mr. Holliday was "exempt employee" and as a result was not entitled to overtime. Page 35 states that if employees work overtime prior approval is required.

Mr. Holliday's hours of work were from 4:00pm to 2:30am, consequently if any overtime was worked by Mr. Holliday there would be no witnesses from the Corporation to verify the same.

Ms. Puchala took issue with the amount of the Wage Assessment in that the Wage Assessment reached back to January 1, 2024, and that the month of January should be excluded as it is in excess of the one year limitation set out in The Act, Section 2-89.

Under cross examination the witness agreed that the hourly rates set out on page 11 do not include the premiums for each night shift, which would be an additional \$5.00/hour which would then put Mr. Holliday's hourly rate of pay at \$.60/hour more than the employees he worked with.

The employer refused to provide the range of pay for Mr. Holliday's supervisor.

The witness stated that she did not know when negotiations, if any, took place between the employee and the employer regarding his wage increase from \$85,000 to \$91,500.

Nor did Ms. Puchala know what negotiations took place, if any, regarding the increase in pay to Mr. Holliday. Nor did Ms. Puchala know why the employee was terminated two months later, nor did she know who authorized the termination.

When asked about the employer knowing the overtime was being worked, Ms. Puchala answered that there was no senior management working after 2:30am at the business and so the employer would not know of any overtime being worked.

Pages 24, 31 and 32 of the Employer Exhibit set out emails that were sent by the employee to the employer at 2:45am, 2:59am and 3:47am and, as such, the employer should have known the employee was working overtime.



Page 31 demonstrates that the employee was not able to hire employees without authorization, as that document shows an email requesting the employee, who was the subject of the email, be hired.

The employee chose not to examine this witness.

Greg Vennard was sworn and gave the following evidence:

He is the Director of Operations for the company, he stated that Mr. Holliday was able to assign work to the night shift and could assign various employees to various tasks as needed.

Under cross examination when referring to documents under Tab 6 of the ESO, he confirmed that Mr. Holliday's supervisor had to authorize overtime according to the document. Mr. Vennard did not know why that was required. Also, under Tab 6 Mr. Vennard was unable to advise why the employee handbook stated that overtime work must receive the

supervisor's prior authorization and not Mr. Holliday taking that on his own initiative. He also didn't know why Mr. Holliday himself did not receive authorization for overtime, which would not be required if he was a manager rather than an employee. In other words, Mr. Holliday's supervisor had to authorize overtime for Mr. Holliday or any other employee working under Mr. Holliday.

Mr. Vennard also confirmed that the document under Tab 8 showed that Mr. Holliday was working more hours than his shift and that he had signed the document acknowledging it to be so.

Mr. Holliday declined to cross examine this witness.

Mr. Devin Malakoff gave sworn evidence on behalf of the company as follows:

He is the Human Resources Manager for the Corporation and the Corporation was not unionized.

Mr. Malakoff advised that he was involved in the hiring process. He is advised by the unit that he wants to hire, he gives directions to the unit setting out the skill set, start times, and time frame for work. He then manages the process of posting positions, both internally and externally, screening applications and booking interviews. He does a preliminary interview with the supervisor covering the background and experience of the prospective employee. If the employee is approved at this stage he goes on to the floor for testing of his skill sets regarding the particular job they are being hired for. At this point the manager such as Mr. Holliday would give advice as to whether to hire or not.

Mr. Malakoff confirmed that Mr. Holliday could not hire, but is part of the hiring process and gives input if asked. At this point the supervisor is given direction to hire or not.

Under cross examination Mr. Malakoff advised that he is not involved with overtime.

Mr. Malakoff confirmed that the notations on page 27 were written by him regarding an employee reprimand and that he was not involved with the time sheets of the employees.

#### **IV. EVIDENCE OF EMPLOYEE**

The employee, Mr. Shane Holliday, was sworn and gave evidence on his behalf.

He was an employee of SeedMaster Manufacturing Ltd. from October 2023 to February 2025 and had a job classification of Production Supervisor. He reported to the Vice President of Operations as at that time there was not Production Manager, although there was sometime later, to whom he would report to.

His job description was to supervise the afternoon shift and to keep everyone on a production schedule.

The production schedule would come from the Productions Coordinator. Mr. Holliday would follow the schedule from the Production Coordinator.

The employees that worked under Mr. Holliday were the lead hands and welders and he assisted them in keeping the schedule. There was also the welding and paint employees that he supervised.

His hours of work were 4:00pm to 2:30am.

Mr. Holliday was curious about overtime; however, he never asked his employer about overtime, because, early on in his employment with SeedMaster Manufacturing Ltd., a fellow employee who asked about overtime was fired on the spot.

Mr. Holliday was never told he was not entitled to overtime.

Mr. Holliday described his role in discipline was to deliver a safety violation warning notice to the employee after he received it from the Human Resource Manager.

Mr. Holliday advised that he did attempt to discipline an employee on one occasion, a Mr. Josh Stewart. He gave a witness statement to the Production Manager, thereafter he was told to see the Human Resources and Production Manager and discuss the matter before issuing another discipline notice. He was advised he did not have the authority to discipline.

The performance evaluations that he completed for employees were submitted to the Human Resources department and Mr. Holliday had no involvement regarding performance thereafter.

Mr. Holliday had no authority to hire or fire anyone.

Mr. Holliday described the interview process for hiring as follows:

1. The perspective employee would be interviewed and sent to the floor to do a welding test. The weld lead hand would perform the test with the prospective employee, and give the results to Mr. Holliday, who in turn would pass them on to Human Resources. Page 31 of the Employers Exhibit was described by Mr. Holliday as what he would pass on to Human Resources and wait for the decision as to whether or not the prospective employee would be hired or not. The suggested salary range would be given to Mr. Holliday by the people who were overseeing the performance test and Mr. Holliday would then pass it on to Human Resources.
2. Tab 12 of the ESO Exhibit sets out emails between Mr. Holliday and Human Resources demonstrating Mr. Holliday did not have the authority to authorize someone to come to work, but had to pass it on to Human Resources, who would then advise what Mr. Holliday was to do.

Mr. Holliday described his independence as receiving a production schedule and the only authority he had was to prioritize parts of the schedule.

Mr. Holliday stated he had no authority to negotiate remuneration for other employees as demonstrated by documents under Tab 13. He also could not renegotiate his salary but was told by management what it would be, although he could request increases in salary for other employees.

He had no authority to give raises if anyone came to him requesting a raise, he would then contact the Production Manager regarding the raise.

Mr. Holliday confirmed that his salary of \$91,500/year equates to approximately \$43.99/hour.

Mr. Holliday described his inability to make any decisions in the Corporation, as everything had to be preapproved by the upper



Management, with the exception of prioritizing the daily work schedule for the employees working under him.

Under cross examination the employee said he would take a production schedule that was given to him, assign the work duties and post the printed schedule. He could only adjust the schedule that had been given to him if no one in senior management was around.

The Employment Standards Officer advised that she would like to amend the Wage Assessment amount downward as she had inadvertently included wages for January 2024 which were outside the 12 month time frame permitted in Section 2-89(2)(b). and requested that the Wage Assessment be amended by reducing the amount claim by \$864.47.

## **V. ANALYSIS/DECISION**

The main issue here is whether Mr. Holliday was a Manager as defined by Section 3(4) of The Employment Standards Regulations and as such would be covered by Section 2(17)(1) of The Act regarding overtime.

The employee says that he was not a manager, the employer says that Mr. Holliday was a manager.

The Saskatchewan Employment Act and Regulations define an employee who performs services that are entirely of a managerial character in order to be exempt from the Legislation the same.

However, that does not end the matter. In order to put Mr. Holliday in the exception set out in the Legislation, the totality of the evidence must be reviewed, in order to determine what Mr. Holliday's actual position was.

The Legislation states that the provisions relating to overtime do not apply to an employee who performs services that are entirely of a managerial character.

Whether or not an employee was a manager has been discussed extensively by the Court of Queen's Bench in the Westfair Foods Ltd. v. Saskatchewan (Director of Labour Standards) (1995) S.J. No 620. A Judgement of the Saskatchewan Court of Queen's Bench by Justice Klebuc.

The issue here is whether Mr. Holliday's positions fall within the exception contained within the Legislation.

The phrase "services that are entirely of a managerial character" contained in s.4(2) of the Act has been broadly considered. Mr. Justice Wright of this Court in Elcan Forage Inc. v. Weiler (1992), 102 Sask. R. 197 (Sask Q.B.) concluded the exception provisions contained

in s.4 of the Act must be strictly construed to ensure rights extended by the Act to employees are not casually eroded.

In Machtinger v. HOJ Industries Limited, (1992) 1 S.C.R. 986, the Supreme Court of Canada held that the Labour Standards Legislation should be interpreted to extend protection to as many employees as possible.

The word "entirely" was judicially considered by Wimmer J. in Michael Hill v. Ronert C. Begg, Keith O'Shea and Mr. Mechanic Sales & Service Ltd. (1982), Q.B. No.686/86. Justice Wimmer stated, "In my opinion the word "entirely" in this section is to be understood in the sense of continuously in contra-distinction to from time to time."

What constitutes "of a managerial character" for the purposes of s.4(2) of the Act will vary according to the facts of each case. Hence, an all-encompassing definition for the phrase is impractical. However, a reference to those characteristics and functions indicative of, or at least associated with managerial positions, as indicia for determining whether an employee's services are of a managerial character are, in

my view, appropriate. The indicium making up such criteria can readily be extracted from case authorities, dictionary definitions, reports of arbitration awards and legal writings on employment law.

The fundamental ones in my opinion are:

1. The supervision and direction of other workers;
2. The discipline of subordinates, individually or as part of a management team.
3. Evaluating the performance of subordinates;
4. Hiring and promoting of subordinate staff;
5. Some independence and discretion in performing assigned duties;
6. Supervision of a collective agreement, where the workplace is unionized;
7. Negotiating remuneration individually rather than collectively;
8. Level of remuneration, vis-à-vis, non-managerial staff;
9. Participation in carrying out the employer's budgets and performance requirements.

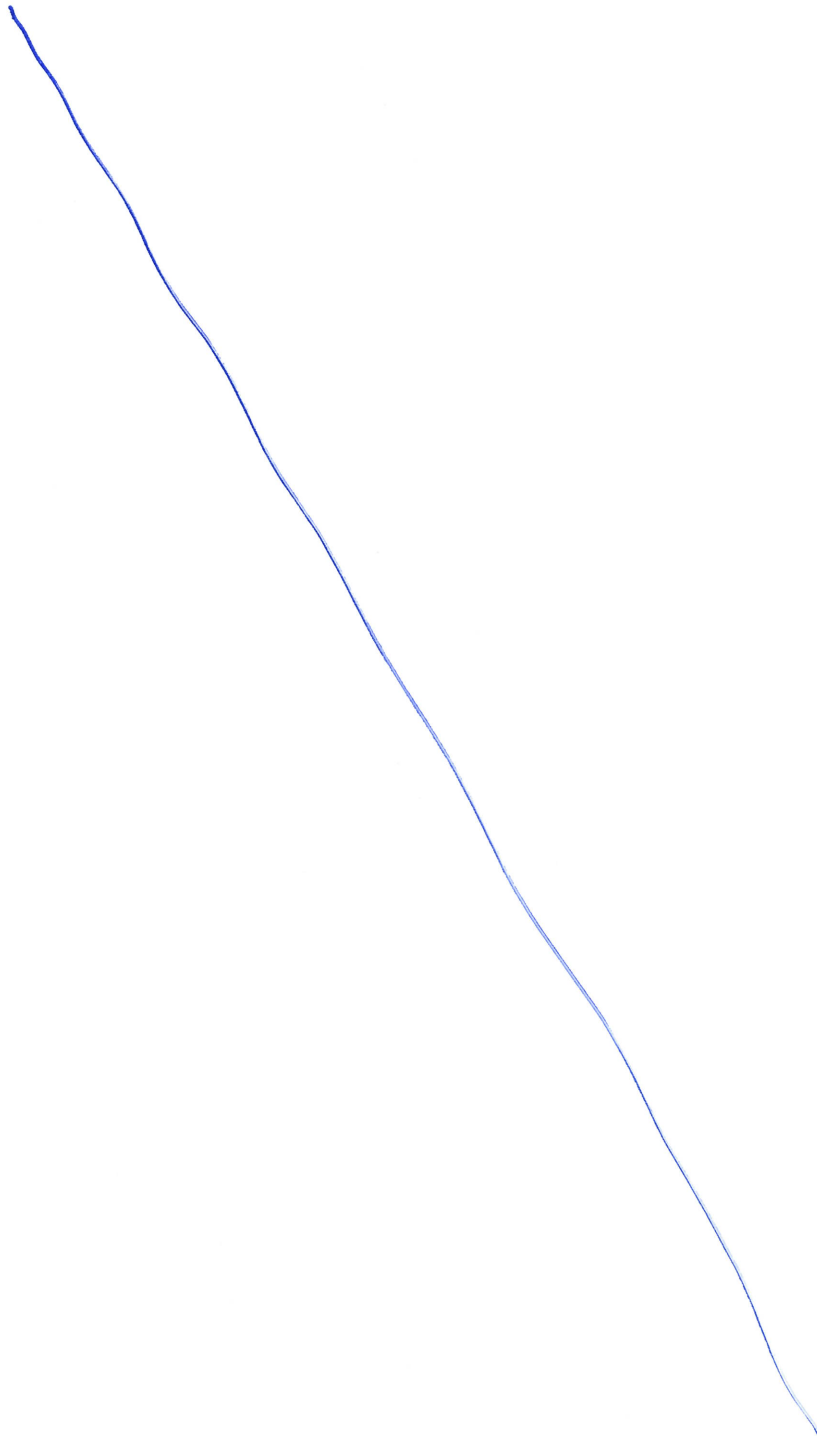
This list is not intended to be all inclusive; nor must each criterion be found to exist before an employee's position can take on a managerial character; nor is each criterion entitled to equal weight. To the

contrary, in my opinion only the functions of supervision and the right to discipline are of fundamental importance and are therefore of a greater significance.

In applying the evidence of the management tests set out I find as follows:

1. Supervisor of other workers – the evidence shows that this was a duty Mr. Holliday had.
2. Discipline of subordinates – the evidence shows that Mr. Holliday did not discipline employees, he merely submitted reports to whomever decided and dealt with the discipline.
3. Evaluating the performance of subordinates – Mr. Holliday completed evaluation notes and submitted them to management for them to complete the evaluation.

4. Hiring and promoting of subordinate staff – Mr. Holliday made recommendations about hiring and promoting staff but did not make the final decision.



5. Some independence and discretion in performing assigned duties  
– Mr. Holliday did have some independence when performing duties on the shop floor in that he could prioritize which projects would be worked on first.
6. Supervision of collective agreement – SeedMaster Manufacturing Ltd. workplace is not unionized.
7. Negotiating remuneration individually – Mr. Holliday only had one raise and it was not negotiated but given to him by the employer.
8. Level of remuneration – Mr. Holliday's level of remuneration was only slightly higher than the other non-management staff. The employer would not disclose the salary of Mr. Holliday's superior when asked in cross examination. In so doing, the employer prevented a full disclosure of the company remuneration regarding Mr. Holliday.
9. Participation in carrying out the employer's budgets and performance requirements – Mr. Holliday only made recommendations regarding the same.



When applying *Machtinger v. HOI industries Limited*, Supreme Court of Canada, that the Act should be interpreted as inclusive as possible, and Mr. Justice Wright's decision in *Elcan Forage Inc. v. Weiler*, of strictly applying exemption provisions to ensure rights extended by The Act to employees are not casually eroded, I find that Mr. Holliday was not a manager within the meaning of the Saskatchewan Employment Act.

The employer also raised an issue with the amount of the Wage Assessment taking the position that the Employment Standards Officer exceeded one year in calculating the amount of the Wage Assessment SEE Section 2-89(2)(b). This concerned the month of January 2024. As shown in Tab 16, the ESO at the outset of the hearing deducted the first two weeks of January from the Wage Assessment. The employer takes the position that the last two weeks should also be reduced; however, as the last two weeks are payable in the month of February it is caught by the one year time limitation as set out in The Act.

The employer also takes issue with the payment of overtime, taking the position that because of Mr. Holliday's shift (4:30pm to 2:30am), that they did not know Mr. Holliday was working overtime.

The documentation as set out in the employers and employees evidence shows that the employee knew or ought to have known Mr. Holliday was working overtime. There were several emails showing that the employee was working outside of regular hours, these emails being forwarded to management.

By applying Section 2-2 of The Act, I find that the employer knew or ought to have known that the employee was working overtime and did not take steps to cause the employee to stop working.

## **VI. CONCLUSION**

The appeal is dismissed the Wage Assessment is upheld in the amended amount of \$22,156.86 (\$23,021.33 - \$864.47).

Dated at Moose Jaw, In the Province of Saskatchewan,  
this 27<sup>th</sup>, of June 2025.



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**Clifford B. Wheatley**  
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 <http://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; and
  - (b) to appeal any decision of an adjudicator or the board.