



LRB File No. 251-24

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: May 14, 2025

Date of Decision: May 14, 2025

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'). The Wage Assessment orders Amroth Builders Ltd. and Ian Douglas Dodd to pay the sum of \$2,852.50 to Jean Bosco Ndikumukizaa.
3. A hearing was held November 28, 2024. Following the hearing I issued a decision dated November 28, 2024. In that decision I concluded that the appeal was not commenced within the statutory limitation period prescribed by subsection 2-75 of *The Saskatchewan Employment Act* ('SEA').
4. Amroth Builders Ltd. appealed my decision to the Labour Relations Board ('LRB'). The LRB by order dated April 9, 2025 ordered that the matter be remitted back to me for amendment of the decision in accordance with their reasons.
5. In their reasons, the LRB explained *inter alia* that the Appellant had not received sufficient notice of the Director's preliminary objection to my jurisdiction. As a result the matter, now given a file number of LRB 251-25, was remitted back to me, to amend my decision in accordance with their reasons and Order. A hearing date was set for May 14, 2025.
6. The purpose of the May 14 hearing was to allow the appellant to reply to the Director's preliminary objection to my jurisdiction based on *SEA* s. 2-75 and to set a second date for a hearing on the merits, if required. The Director's preliminary objection alleges that the appellant's appeal was commenced outside of the permissible appeal period.
7. On April 24, 2025 the Director's representative filed five electronic documents. One of these documents is the Director's Written Submissions. I will not mark that document as an exhibit because it is not submitted as evidence.
8. The other four documents are accepted as exhibits with the following numbers:
EE-1 A five page document including two customer receipts dated May 23, 2024. One receipt is in the name of 'Ian Douglas Dodd' and one is in the name of 'Amroth Builders'.

EE-2 A seven page document including cheque number 000437 dated June 25, 2024 in the amount of \$500.00 made out to 'Employment Standards', a receipt made out to Amroth Builders Ltd. #ES 35690 in the amount of \$500.00, an Employment Standards 'Payment Log Sheet' indicating a cheque dated June 25/24 and numbered 35690, in relation to Complaint #1-011207 was received from Amroth Builders Ltd, a letter of appeal from Ian Dodd to the Director of Employment Standards dated June 25, 2024, a copy of Wage Assessment number 1-000818 issued to Amroth Builders Ltd., and Ian Dodd, and a letter from 'Lorne Deason' to 'Ian Douglas Dodd' dated May 23, 2024

EE-3 A one page delivery confirmation dated March 12, 2025 from Canada Post showing a delivery recipient of 'Ian Dodd' and Tracking Number 'RN498927883CA'.

EE-4 A one page delivery confirmation dated March 12, 2025 from Canada Post showing a delivery recipient of 'Ian Dodd' and Tracking Number RN498927870CA.

9. On May 13, 2025 Mr. Dodd submitted two documents which appear to be screen shots of texts. These documents are accepted and marked as exhibits with the following numbers:

ER-1 A screen shot of a text indicating a time of 10:21 beginning with the words "Good evening sir, I want to request if you have a job...".

ER-2 A screen shot of a text indicating a time of 10:14 beginning with the words "It's ok I find how I can remove the mud...".

10. The hearing to determine the preliminary jurisdictional issue was held May 14, 2025 at 10:00 am. In addition to myself, Jean Bosco Ndikumukizaa and the Director's representative Ms. Finn joined via zoom. Mr. Dodd emailed me at 10:04 indicating he was having trouble signing into zoom and asked me to call him. I called Mr. Dodd on a speaker phone and confirmed that all parties could hear one another.

11. Ms. Finn presented the Director's position first. The Director's position is simply that this appeal was not commenced within the time limit established in the *SEA*, and as a result I have no jurisdiction to hear the appeal.

12. The Wage Assessment was dated May 23. The Wage Assessment was served by registered mail. Exhibit EE-1 is a customer receipt for registered mail addressed

to 'Ian Douglas Dodd' with a Canada Post tracking number RN 498 927 870 CA and to 'Amroth Builders Ltd.' with a Canada Post tracking number RN 498 927 883 CA. The accompanying Canada Post Report indicates the items with tracking numbers RN 498 927 870 CA and RN 498 927 883 CA were delivered and signed for by the recipient on May 31.

13. Exhibit EE-3 is a Canada Post document which shows that the item addressed to Amroth Builders Ltd. with tracking number RN498927883CA was delivered to Ian Dodd on May 31, 2024. Mr. Dodd signed for delivery, and a copy of his signature appears on the Canada Post document.

14. Exhibit EE-4 is a Canada Post document which shows that the item addressed to Ian Dodd with tracking number RN498927870CA was delivered to Ian Dodd on May 31, 2024. Mr. Dodd signed for delivery, and a copy of his signature appears on the Canada Post document.

15. The documentary evidence establishes unequivocally that both appellants were served with a true copy of the Wage Assessment on May 31, 2024.

16. Exhibit EE-2 includes a cheque from Amroth Builders Ltd. in the amount of \$500.00. It is signed by Mr. Dodd. The signature appears to be the same as the signatures for the registered mail contained in EE-3 and EE-4.

17. Exhibit EE-2 also contains a Government of Saskatchewan receipt numbered ES 35690 indicating \$500.00 was received from Amroth Builders Ltd., and a Payment Log Sheet indicating the \$500.00 cheque dated June 25, 2024 for which receipt 35690 was issued, was in relation to Complaint #1-011207. I note that this is the file number associated with the Wage Assessment. Exhibit EE-2 also contains a letter dated June 25, 2024 to the Director of Employment Standards from Mr. Dodd. It begins "My name is Ian Dodd and I am writing to you to request an appeal of File number 1-011207...". This letter is clearly the appellants' letter of appeal.

18. Taken together, these documents establish that the appellants commenced their appeal on June 25, 2024.

19. Subsection 2-75(2) of the *SEA* states:

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.

20. The Wage Assessment was served on the appellants on Friday, May 31, 2024. The 15 business day limitation period ended at end of day on Friday, June 21.

21. None of what I have laid out so far was contradicted by evidence from Mr. Dodd. Mr. Dodd presented two arguments. The first was that he did receive the claim and did respond to it within 15 days. The second argument was that Mr. Dodd was never Mr. Ndikumukizaa's employer.

22. I will first address Mr. Dodd's argument that he did respond to the Wage Assessment within 15 business days. Mr. Dodd says he did indeed receive the Wage Assessment together with the letter signed by Lorne Deason contained in exhibit EE-2. Mr. Dodd says he telephoned Mr. Deason within an hour of receiving the letter, and that Mr. Deason said he would get back to Mr. Dodd, but never did. Mr. Dodd says that he followed up by leaving further messages for Mr. Deason. He says that Mr. Deason retired and no one at the Ministry was checking his voice mail. Mr. Dodd says Mr. Deason's letter said for him to contact Mr. Deason within 15 business days and that he had done so, but no one from the Ministry got back to him.

23. The first two paragraphs of Mr. Deason's letter state the following:

Under section 2-74 of The Saskatchewan Employment Act, consider the attached Wage Assessment as a legal order to pay outstanding wages. Accordingly, you must pay the total amount of this Wage Assessment within 15 business days after the service date. To pay, send me a cheque made out to the claimant.

However, if you disagree with this Wage Assessment, you may appeal to an independent adjudicator under section 2-75 of The Saskatchewan Employment Act. Your appeal must be in writing and include the reasons for your appeal and the change you want. Employment Standards must receive your appeal within 15 business days of being served the Wage Assessment along with an appeal deposit of \$500.00, made payable to the "Minister of Finance".

24. Mr. Deason's letter which accompanied the Wage Assessment, clearly states that if Mr. Dodd wishes to appeal the Wage Assessment he must send Employment Standards a written appeal and a \$500 deposit cheque within 15 business days. This letter is a clear, concise and accurate summary of the requirements to appeal contained in the SEA. However, Mr. Dodd did not follow

the instructions. Instead, he submitted his appeal letter and deposit cheque on June 24, after the time limit for commencing an appeal had passed.

25. The *SEA* states that to commence an appeal the appellant must submit a written appeal and a deposit cheque. An appeal cannot be commenced by telephoning a Labour Standards Officer, or by leaving telephone messages.

26. As an adjudicator under the *SEA*, I only have the power to hear an appeal that was commenced within the time limit set by the *SEA*. I do not have the jurisdiction to hear an appeal like this one which was filed after the time limit had passed. I also do not have the jurisdiction to extend the time limit. Therefore, I must conclude that Mr. Dodd's first argument fails.

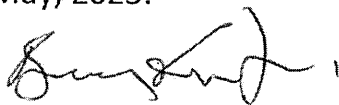
27. I turn now to Mr. Dodd's second argument, which is that Mr. Dodd says he was never Mr. Ndikumukizaa's employer and that he told this to Mr. Deason.

28. By issuing the Wage Assessment, it is clear that Employment Standards concluded that Amroth Builders Ltd. was Mr. Ndikumukizaa's employer. It is identified as such in the Wage Assessment itself. Mr. Dodd is also named in the Wage Assessment as a director of the employer.

29. If the appellants had commenced this appeal within the prescribed time limit, an adjudicator could hear evidence on whether Amroth Builders Ltd. should be found to be Mr. Ndikumukizaa's employer within the meaning of the *SEA*. However, this argument is an argument on the merits of the Wage Assessment. An adjudicator can only hear an argument on the merits of an appeal if that adjudicator has jurisdiction to hear the appeal. The reason for today's hearing was to determine if I have jurisdiction to hear the merits of the appeal.

30. This appeal was not commenced within the time limit prescribed by ss 2-75 (2) of the *SEA*. Therefore, I do not have the jurisdiction to hear this appeal. The appeal is dismissed.

Dated at the City of Saskatoon, in the Province of Saskatchewan this 14th day of May, 2025.



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 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.



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EXHIBIT LIST

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