

Manitoba Labour Board

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Case No. 676/06/ESC

File No. 91246

IN THE MATTER OF: THE EMPLOYMENT STANDARDS CODE

BETWEEN:

GIJO LTD., trading as CANADIAN HOMESTEAD,

Employer,

- and -

L.A.B.,

Employee.

This Decision/Order has been edited to protect the personal information of individuals by removing personal identifiers.

WHEREAS:

1. On August 28, 2006, pursuant to Section 96(1) of *The Employment Standards Code*, the Director of the Employment Standards Division of the Department of Labour and Immigration ordered that the amount of Four Thousand Five Hundred Twenty Five Dollars and Ninety Two Cents (\$4,525.92) being wages owing by the Employer to Employee(s), be paid to the Director of the Employment Standards Division of the Department of Labour and Immigration by the Employer and further required the payment of the administrative fee in the amount of Four Hundred Fifty Two Dollars and Fifty Nine Cents (\$452.59) for a total owing of Four Thousand Nine Hundred Seventy Eight Dollars and Fifty One Cents (\$4,978.51).
2. The Employer having disputed the payment of the above-mentioned amount, the Director of the Division, pursuant to Section 110 of the *Code*, referred the matter to the Board.
3. On January 25, 2007, the Board conducted a hearing at which time both parties appeared before the Board and presented evidence and argument. The Employer being represented by Counsel and the Employee being represented by a representative.
4. The Board, following consideration of material filed, evidence and argument presented, **HEREBY ISSUES** the following **PRELIMINARY DECISION**:
 - a) L.A.B. is an Employee of the Employer;

- b) the Employee is entitled to receive commission wages on all collections received by the Employer for advertisements sold by the Employee at the agreed upon rate of Twenty Five (25%) percent;
- c) the Employee is entitled to receive vacation wages on all commissions wages owing to her at a rate of Four (4%) percent of said commissions owing;
- d) during the time period at issue, the Employee closed a single sale, on or about April 2, 2006, consisting of six advertisements, the final one of which is scheduled to be published by the Employer in April of 2007. The Employer has yet to receive any payment from the customer from the publication of these advertisements;
- e) the Employer shall confirm for the Board on or before June 1, 2007 whether the advertisements have been published, that the amounts owing by the customer have been received by the Employer, and that the commission wages and vacation wages owing to the Employee, based on the collections received by the Employer from the customer, have been paid to the Employee;
- f) the Board shall retain jurisdiction with respect to any issues relating to this Order which cannot be resolved by the parties by July 1, 2007.

ISSUED at Winnipeg, Manitoba, this 2nd day of March, 2007.

"Original signed by"

REGISTRAR

BJG:tj/r-s