

Manitoba Labour Board

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www.manitoba.ca/labour/labbrd

Case No. 738/06/ESC

File No. 91528

IN THE MATTER OF: THE EMPLOYMENT STANDARDS CODE

BETWEEN:

**3422640 MANITOBA LTD. t/a
HOFFER ENTERPRISE,**

Employer,

- and -

O.M.,

Employee.

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

WHEREAS:

1. On October 4, 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 Hundred Sixty Eight Dollars and Ninety Cents (\$468.90) being wages owing by the Employer to the 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 One Hundred Dollars (\$100.00) for a total owing of Five Hundred Sixty Eight Dollars and Ninety Cents (\$568.90).
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 February 15, 2007, the Board conducted a hearing at which time both parties appeared before the Board and presented evidence and argument.
4. The Board, following consideration of material filed, evidence and argument presented, found:
 - a) that the work done by the Employer/Employee was heavy construction and pursuant to the Manitoba Heavy Construction Wage Rates and Employment Conditions under *The Construction Industry Wages Act*,

the Employee is entitled to receive an hourly rate of Thirteen Dollars and Thirty Cents (\$13.30) per hour;

- b) the fact that the Employee cashed a cheque purportedly representing "final payment" does not thereby prevent the Employee from seeking all amounts owed to him pursuant to the legislation; and
- c) that the Employee is entitled to receive wages, general holiday wages and vacation wages in the amount of Four Hundred Sixty Eight Dollars and Ninety Cents (\$468.90), as per the Statement of Adjustment prepared by the Employment Standards Division.

T H E R E F O R E

The Manitoba Labour Board **HEREBY ORDERS 3422640 MANITOBA LTD. t/a HOFER ENTERPRISE**, to pay to the Director of Employment Standards Division of the Department of Labour and Immigration, forthwith:

WAGES:

The amount of Four Hundred Sixty Eight Dollars and Ninety Cents (\$468.90) less statutory deductions, being wages, general holiday wages and vacation wages owing the Employee, O.M.

ADMINISTRATIVE FEE:

An Administrative Fee in the amount of One Hundred Dollars (\$100.00) pursuant to Section 96(1) of *The Employment Standards Code*.

TOTAL:

The total amount being Five Hundred Sixty Eight Dollars and Ninety Cents (\$568.90).

DATED at WINNIPEG, Manitoba, this 23rd day of February, 2007.

"Original signed by"

REGISTRAR

BJG:tj/rb-s