

**Case No. 152/15/ESC**

**File No. 121363**

**IN THE MATTER OF: THE EMPLOYMENT STANDARDS CODE**

**BETWEEN:**

**GREENCUT ENVIRONMENTAL SERVICE LTD.,**

**Employer,**

**- and -**

**B.M.,**

**Employee.**

**BEFORE:**

**W. D. Hamilton, Vice-Chairperson**

**P. Wightman, Board Member**

**G. Tomchak, Board Member**

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

**SUBSTANTIVE ORDER**

**WHEREAS:**

1. On May 27, 2015, pursuant to Section 96(1) of *The Employment Standards Code*, the Director of the Employment Standards Division ordered that the amount of One Thousand One Hundred Sixty-Six Dollars and Fifty Cents (\$1,166.50), being wages owing by the Employer to the Employee(s), be paid to the Director of the Employment Standards Division by the Employer and further required the payment of the administrative fee in the amount of One Hundred Sixteen Dollars and Sixty-Five Cents (\$116.65) for a total owing of One Thousand Two Hundred Eighty-Three Dollars and Fifteen Cents (\$1,283.15).
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 October 29, 2015, 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 that:
  - a) the Employer has failed to meet its onus, on the balance of probabilities, that it paid the Employee vacation pay which the Employment Standards Division determined was owing to the Employee, in the amount of One Thousand One Hundred Sixty-Six Dollars and Fifty Cents (\$1,166.50), as recorded in the Statement of Adjustment (Exhibit 1);
  - b) corroborative of the foregoing finding is the fact that the Employer did not produce any supporting payroll records which all employers are required to keep and maintain for a period of three years, pursuant to Section 135(3) of *The Employment Standards Code*;
  - c) the Employee is entitled to receive from the Employer vacation wages in the amount of One Thousand One Hundred Sixty-Six Dollars and Fifty Cents (\$1,166.50) as reflected on the Statement of Adjustment prepared by the Employment Standards Division;
  - d) in the result, the appeal of the Employer is dismissed.

**T H E R E F O R E**

The Manitoba Labour Board **HEREBY ORDERS GREENCUT ENVIRONMENTAL SERVICE LTD.**, to pay to the Director of the Employment Standards Division forthwith:

**WAGES:**

The amount of One Thousand One Hundred Sixty-Six Dollars and Fifty Cents (\$1,166.50) less statutory deductions, being vacation wages owing to the Employee, B.M.

**ADMINISTRATIVE FEE:**

An Administrative Fee in the amount of One Hundred Sixteen Dollars and Sixty-Five Cents (\$116.65) pursuant to Section 96(1) of *The Employment Standards Code*.

**TOTAL:**

The total amount being One Thousand Two Hundred Eighty-Three Dollars and Fifteen Cents (\$1,283.15).

**DATED** at **WINNIPEG**, Manitoba, this 9<sup>th</sup> day of December, 2015, and signed on behalf of the Manitoba Labour Board by:

“Original signed by”  
W. D. Hamilton, Vice-Chairperson

“Original signed by”  
P. Wightman, Board Member

“Original signed by”  
G. Tomchak, Board Member

CP:tj:lo-s