

**Manitoba Labour Board**

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**Case No. 270/17/ESC**

**File No. 125537**

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

**BETWEEN:**

**7226081 MANITOBA INC.,**

**Appellant,**

**- and -**

**D.A.,**

**Respondent.**

**BEFORE: Karine Pelletier, Vice-Chairperson**

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

**SUBSTANTIVE ORDER**

1. On October 28, 2016, the Respondent filed a claim with the Employment Standards Branch (ESB).
2. On November 22, 2017, the ESB issued a Payment of Wages Order (the "Order") to the Respondent for wages in the amount of \$2,367.36, together with an administrative fee of \$236.73, for a total of \$2,604.09.
3. On November 22, 2017, the Appellant filed correspondence with the ESB requesting to appeal the Order, claiming that the Respondent was not an employee of the numbered company.
4. On December 12, 2017, the Manitoba Labour Board (the "Board") received the referral of this matter from the ESB.

5. At the request of the parties, the matter was adjourned *sine die* on August 31, 2018, pending the outcome of proceedings filed in the Court of King's Bench.
6. On February 8, 2021, the Board conducted a case management conference (CMC), at which time it was determined that this matter would be heard together with Case No. 269/17/ESC. The Board conducted a further CMC on March 8, 2021, confirming that the matter would remain adjourned *sine die*.
7. On July 19, 2022, having failed to receive any further information from the parties, the Board informed the parties that this matter would proceed to hearing on January 10 and 11, 2023.
8. On December 20, 2022, Rempel J. from the Court of King's Bench issued a decision which concluded that the Respondent was an Employee of the numbered company. He remarked that the ESB had issued a decision which outlined that the Appellant was entitled to payment for unpaid wages.
9. Following receipt of Rempel J.'s decision, the Board attempted to reach the Appellant without success. The Board retained the scheduled dates of hearing. The only issue that remained outstanding was the issue of whether wages, if any, were owed to the Respondent.
10. On January 10, 2023, the Respondent attended the hearing. The Appellant did not attend, did not contact the Board, failed to call any evidence, and made no submissions. The Board concluded that the Appellant failed to prove its case on appeal. The Respondent was advised that the Order from the ESB was confirmed.
11. For these reasons, the Appeal must be dismissed and the ESB Order is confirmed.

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

The Manitoba Labour Board **HEREBY ORDERS 7226081 MANITOBA INC.** to pay to the Director of the Employment Standards Branch forthwith:

#### **WAGES:**

The amount of Two Thousand Three Hundred Sixty-Seven Dollars and Thirty-Six Cents (\$2,367.36), less statutory deductions, being wages, general holiday wages, vacation wages, and wages in lieu of notice owing to the Employee.

**ADMINISTRATIVE FEE:**

An Administrative Fee of Two Hundred Thirty-Six Dollars and Seventy-Three Cents (\$236.73) pursuant to Section 96(1) of *The Employment Standards Code*.

**TOTAL:**

The total amount being Two Thousand Six Hundred Four Dollars and Nine Cents (\$2,604.09).

**DATED** at **WINNIPEG**, Manitoba, this 24<sup>th</sup> day of January, 2023, and signed on behalf of the Manitoba Labour Board by:

*“Original signed by”*  
\_\_\_\_\_  
**Karine Pelletier, Vice-Chairperson**

KP/st/acr/ejh-s