

IN THE MATTER OF A COMPLAINT OF ALLEGED UNJUST DISMISSAL  
UNDER DIVISION XIV - PART III, SECTION 240 OF THE *CANADA*  
*LABOUR CODE*, R.S.C. 1985, c. L-2

BETWEEN:

**HAROLD ASAPACE,**

COMPLAINANT,

AND:

**KAWACATOOSE FIRST NATION,**

RESPONDENT.

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**ADJUDICATOR'S SUPPLEMENTAL DECISION**      T. F. (TED) KOSKIE, B.Sc., J.D.  
April 28, 2014

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**Date of Hearing:**      April 16, 2014

**Place of Hearing:**      Telephone Conference

**Representatives:**      Complainant, Harold Asapace, Self Represented

   Nobody for the Respondent, Kawacatoose First Nation

- [1] Within my decision dated March 24, 2014, I, *inter alia*:
- a) ordered Kawactoose First Nation (“KFN”) to:
    - i) reinstate Harold Aspace (“Aspace”) in its employ; and
    - ii) pay Aspace the amount of money that is equivalent to the remuneration that would, but for the dismissal, have been paid by KFN to Aspace; and
  - b) reserved jurisdiction to hear and decide any issue concerning the implementation of this decision, including but not limited to the calculation of the remuneration to be paid by KFN to Aspace and the amount to be deducted by way of mitigation.
- [2] The parties have advised me that they cannot agree upon the calculation of the remuneration to be paid by KFN to Aspace and the amount to be deducted therefrom by way of mitigation. They have asked that I make those determinations.
- [3] KFN forwarded two documents to me that set forth its position. Same can be summarized as follows:
- a) Aspace’s last paid day of employment was April 12, 2013;
  - b) Aspace attended his Training course from April 15, 2014 to May 17, 2014;
  - c) KFN owes pay to Aspace for:
    - i) thirty weeks in 2013—being April 13, 2013, to December 31, 2013; and
    - ii) fourteen weeks in 2014—being January 1, 2014, to April 4, 2014;

- d) KFN is entitled to deduct three weeks for casual and elder honorarium days, resulting from:
- i) \$2,320.00 in payments from May 29, 2013, to March 21, 2014;
  - ii) 23.5 hours of work with Ungar Construction of Theodore, Saskatchewan; and
  - iii) 44 hours of work with another company; and
- e) as a result of all of the foregoing, KFN owes Asapace \$20,500.00—being 20½ bi-weekly payments of \$1,000.00.

[4] I scheduled a telephone conference for 10:00 a.m. on Wednesday, April 16, 2014, to hear the parties. At 10:02 a.m., KFN asked to reschedule the telephone conference to 1:00 p.m. the same day. Asapace agreed and I adjourned the telephone conference as requested. Same was confirmed by e-mail to the same address from which the request originated from KFN. Asapace attended the telephone conference at 1:00 p.m., KFN did not. I proceeded to hear from Asapace.

[5] Asapace:

- a) did not dispute his last paid day was April 12, 2013;
- b) said his Training course carried on thereafter until May 17, 2013;
- c) disagreed KFN should be entitled to deduct the elder honorarium payments, saying same were payable to him quite separate and distinct from any employment by KFN;
- d) agreed KFN is entitled to deduct casual labour payments resulting from:
  - i) 23.5 hours of work—at \$20.00 per hour—with Ungar Construction of Theodore,

Saskatchewan; and

- ii) 44 hours of work-\$17.00 per hour-with Chinook Pipeline of Pincher Creek, Alberta;
- e) as a result of all of the foregoing, as of April 7, 2014, KFN owes him \$21,996.29, being comprised of \$23,214.29-for 46 weeks and three days-less \$1,218.00 for casual labour earned.

[6] I agree with Asapace's submission with one exception. Following his dismissal, KFN paid leave pay of \$3,032.00 to Asapace. This sum should also be deducted. That leaves KFN owing \$18,964.29 to Asapace as of April 7, 2014.

[7] I order KFN to forthwith pay Asapace:

- a) \$18,964.29; and
- b) his salary for work as and from April 8, 2014.

[8] I reserve jurisdiction to hear and decide any issue concerning the implementation of this decision and my previous decision of March 24, 2014.

Dated at Saskatoon, Saskatchewan, on April 28, 2014.



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T. F. (TED)KOSKIE, B.Sc., J.D.,  
ADJUDICATOR