

Page 001 of 390

Withheld pursuant to/removed as

s.3

## Reinheimer, Leah LBR:EX

---

**From:** EST Registrar EST:EX  
**Sent:** February 7, 2020 3:40 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX  
**Cc:** ESB Data Integrity LBR:EX; Boyte, William (Bill) LBR:EX  
**Subject:** Tribunal File Number: 2020/022  
**Attachments:** 2020\_022 Tribunal correspondence dated February 7, 2020 - Appeal Acknowledgement.pdf; 2020\_022 Appeal by The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse.pdf; 2020\_022 Tribunal correspondence dated February 7, 2020 - Directions to the Director.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sophie Vogel-Nakamura,

Please confirm the receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated February 7, 2020 – Appeal Acknowledgement  
Appeal by The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
Tribunal correspondence dated February 7, 2020 - Directions to the Director

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

### WARNING - CONFIDENTIALITY NOTICE

This e-mail and any attachments may contain confidential and privileged information. Any use, disclosure, copying or dissemination of this information by a person other than an intended recipient is not authorized and may be illegal. If you are not an intended recipient, please notify the sender immediately by return e-mail, delete this e-mail and destroy any copies.



## Reinheimer, Leah LBR:EX

---

**From:** EST Registrar EST:EX  
**Sent:** February 12, 2020 3:14 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX  
**Subject:** RE: Tribunal File Number: 2020/022

Hello Sophie,

I have received your email and the three (3) attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

### WARNING - CONFIDENTIALITY NOTICE

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---

**From:** Vogel-Nakamura, Sophie LBR:EX <Sophie.Vogel-Nakamura@gov.bc.ca>  
**Sent:** February 11, 2020 9:13 AM  
**To:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Subject:** RE: Tribunal File Number: 2020/022

Good morning Victoria,

Please find attached:

1. The Record of documents "Tribunal appeal – ESB documents.pdf"
2. A letter to the tribunal "Letter to Tribunal – The Silver Root Taproom Ltd..pdf"
3. The Cover sheet for the Tribunal Appeal "Cover Sheet for Tribunal Appeal – The Silver Root Taproom Ltd..pdf"

Please confirm receipt of these documents.

Regards,

Sophie Vogel-Nakamura  
Delegate of the Director of

Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** EST Registrar EST:EX <[REGISTRAR@BCEST.BC.CA](mailto:REGISTRAR@BCEST.BC.CA)>

**Sent:** February 7, 2020 3:40 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Cc:** ESB Data Integrity LBR:EX <[ESBDataIntegrity@gov.bc.ca](mailto:ESBDataIntegrity@gov.bc.ca)>; Boyte, William (Bill) LBR:EX <[William.Boyte@gov.bc.ca](mailto:William.Boyte@gov.bc.ca)>

**Subject:** Tribunal File Number: 2020/022

Sophie Vogel-Nakamura,

Please confirm the receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated February 7, 2020 – Appeal Acknowledgement  
Appeal by The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
Tribunal correspondence dated February 7, 2020 - Directions to the Director

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

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## Reinheimer, Leah LBR:EX

---

**From:** Vogel-Nakamura, Sophie LBR:EX  
**Sent:** February 13, 2020 10:31 AM  
**To:** EST Registrar EST:EX  
**Subject:** RE: Tribunal File Number: 2020/022 updated  
**Attachments:** Tribunal Appeal - ESB documents with page numbering.pdf; Cover Sheet for Tribunal Appeal - The Silver Root Taproom Ltd..pdf

Good morning,

Please find attached the updated Appeal and Cover Letter.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** Vogel-Nakamura, Sophie LBR:EX  
**Sent:** February 11, 2020 9:13 AM  
**To:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Subject:** RE: Tribunal File Number: 2020/022

Good morning Victoria,

Please find attached:

1. The Record of documents "Tribunal appeal – ESB documents.pdf"
2. A letter to the tribunal "Letter to Tribunal – The Silver Root Taproom Ltd..pdf"
3. The Cover sheet for the Tribunal Appeal "Cover Sheet for Tribunal Appeal – The Silver Root Taproom Ltd..pdf"

Please confirm receipt of these documents.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** EST Registrar EST:EX <[REGISTRAR@BCEST.BC.CA](mailto:REGISTRAR@BCEST.BC.CA)>

**Sent:** February 7, 2020 3:40 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Cc:** ESB Data Integrity LBR:EX <[ESBDataIntegrity@gov.bc.ca](mailto:ESBDataIntegrity@gov.bc.ca)>; Boyte, William (Bill) LBR:EX <[William.Boyte@gov.bc.ca](mailto:William.Boyte@gov.bc.ca)>

**Subject:** Tribunal File Number: 2020/022

Sophie Vogel-Nakamura,

Please confirm the receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated February 7, 2020 – Appeal Acknowledgement  
Appeal by The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
Tribunal correspondence dated February 7, 2020 - Directions to the Director

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

**WARNING - CONFIDENTIALITY NOTICE**

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Office Copy

Date of complaint submission:  
June 19, 2019

Confirmation # 1242036<sup>s.22</sup>

--

## Section A: Information About Your Employer

Legal Name: Silver Root Taproom Ltd.		
Operating As (if applicable): Silver Root Taphouse		
Mailing Address: 198 Baker Street	City, Province/State, Country: Nelson, BC, Canada	Postal Code: V1L4H2
Work Location Address (if different from above):	City, Province/State, Country: , ,	Postal Code:
Contact Person (e.g. manager or supervisor): Jamie Hertz	Telephone Number: ext:	Email Address: s.22
Name of Owner: Jamie Hertz	Telephone Number: ext:	Email Address: s.22
Is your employer still in business? Yes	When did your employer go out of business?	
Is your employer bankrupt or in receivership? No		
Type of business: Hospitality / Restaurant	Employers' Bank/Branch: s.22	

## Section B: Information About You

Last Name: s.22	First Name: s.22	Middle Initial(s):	
Mailing Address: s.22	City, Province: s.22 BC	Postal Code: s.22	
Primary phone number: s.22	Alternate phone number:	Email:	
Are you under the age of 19? s.22			
Are you covered by a collective agreement? NO			
If YES, provide union's name:			

**Section C: Authorization**

If you authorize anyone to act on your behalf, please provide:

Name:	Phone:	Email:
-------	--------	--------

**If you will be using an interpreter, please provide:**

Name:	Phone:	Email:
-------	--------	--------

**Section D: Details About Your Employment**

Job Title: s.22	First Day Worked: s.22	Last Day Worked: s.22
--------------------	---------------------------	--------------------------

Rate of Pay: s.22	How often were you paid? Every two weeks :
----------------------	---

Number of hours worked per day: s.22	Number of days worked per week: s.22	Total hours worked per week: s.22
---	---	--------------------------------------

Do you have a record of the hours worked for this employer that are relevant to your claim?:  
YesEmployment status:  
Other\* Explained in details of your complaint sectionIf the number of hours worked per day, or days worked per week are varied, please describe:  
s.22**Section E: What Do You Believe You Are Owed?**

	From date	To date	Estimated amounts
<input checked="" type="checkbox"/> Regular Wages	s.22	s.22	s.22
<input type="checkbox"/> Overtime			\$0
Were you paid your regular rate of pay for overtime hours worked? No			
<input checked="" type="checkbox"/> Annual Vacation Pay	s.22	s.22	s.22
<input type="checkbox"/> Statutory Holiday Pay	Specify Holiday(s):		\$0
<input type="checkbox"/> Unauthorized Deductions	Specify:		\$0
<input type="checkbox"/> Commissions			\$0
<input type="checkbox"/> Pregnancy/Parental/ or other leave			\$0
<input type="checkbox"/> Compensation for Length of Service (sometimes called Severance/Termination Pay)			\$0
<input checked="" type="checkbox"/> Other	Specify: s.22		s.22
Estimated Total Amount:			s.22

**Section F: Details Of Your Complaint**

s.22

## Section G: Declaration And Complaint Submission

Do you consent to your contact information being disclosed to your employer?  
Yes

## EMPLOYMENT STANDARDS BRANCH WORKFLOW SHEET

**Sophie Vogel-Nakamura**  
Delegate

Employer	The Silver Root Taproom Ltd.	ER #	844529
Employer Telephone	s.22	Alternate Ph:	s.22
Complainant	s.22		
Telephone	s.22		

[illegible]



**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** RE: Update on case status  
**Date:** October 28, 2019 3:02:00 PM

---

Hi s.22

Thank you for this information, it is important. Unfortunately, I am unable to release any information regarding other complaints. However, if you know of other people who have wages owing, please ask them to file a complaint with Employment Standards.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22  
**Sent:** October 28, 2019 10:38 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Tue., Oct. 22, 2019, 3:34 p.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Thank you for the information! I will contact her.

Regards

**From:** s.22

**Sent:** October 22, 2019 3:32 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Tue., Oct. 22, 2019, 2:22 p.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

We are still waiting on documents from the employer. When we receive any documents or proceed to the next step you will be contacted.

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** October 21, 2019 3:54 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Thu., Oct. 10, 2019, 9:49 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

The onus is on the employer to provide the records, under section 28 of the act (see below).

Payroll records must

- (a) be in English,
- (b) be kept at the employer's principal place of business in British Columbia, and
- (c) be retained by the employer for 4 years after the date on which the payroll records were created.

Regards

**From:** s.22

**Sent:** October 10, 2019 9:40 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: emails - Invitation to collaborate

s.22

On Thu., Oct. 10, 2019, 9:23 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Your file is still under active investigation. I am currently waiting on records from the Employer. I will contact you with further information and to schedule a mediation when we have more information.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of

Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** October 10, 2019 9:13 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: emails - Invitation to collaborate

Hi Sophie,

s.22

On Wed., Oct. 2, 2019, 9:07 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Thank you for the quick reply, I will contact you with more information. If you have any questions please do not hesitate to contact me.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** s.22

**Sent:** October 2, 2019 9:01 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** emails - Invitation to collaborate

s.22

has invited you to **contribute** to the

Page 015 of 390

Withheld pursuant to/removed as

s.22

**From:** s.22  
**To:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**Subject:** Re: An update, please  
**Date:** November 18, 2019 10:49:03 AM  
**Attachments:** [Screenshot\\_20190703-154838.png](#)  
s.22

---

Hi Sophie,

s.22

On Mon., Nov. 18, 2019, 9:56 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Yes please attach pay stubs. Thank you for your patience.

Regards,

Sophie Vogel-Nakamura

Delegate of the Director of

Employment Standards

Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** November 18, 2019 9:52 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: An update, please

Thank you Sophie for the quick reply.

s.22

On Mon., Nov. 18, 2019, 9:50 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Good morning s.22

I will be writing a determinations as James Hertz has not responded to the Demands.

Regards,

Sophie Vogel-Nakamura

Delegate of the Director of

Employment Standards

Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** <sup>s.22</sup>

**Sent:** November 18, 2019 9:37 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** An update, please

Hi Sophie,

s.22



**From:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**To:** s.22  
**Subject:** RE: Determination received  
**Date:** December 9, 2019 8:37:00 AM

---

Good morning s.22

The determination was sent to both James Hertz home address and the business address.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** December 6, 2019 1:40 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Determination received

Hi Sophie,

s.22

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: emails - Invitation to collaborate  
**Date:** October 2, 2019 9:07:57 AM  
**Attachments:** [RE emails - Invitation to collaborate.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: emails - Invitation to collaborate

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: An update, please  
**Date:** November 18, 2019 9:50:40 AM  
**Attachments:** [RE An update please.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: An update, please

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: An update, please  
**Date:** November 18, 2019 9:56:52 AM  
**Attachments:** [RE An update please.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: An update, please

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Determination received  
**Date:** December 9, 2019 8:38:07 AM  
**Attachments:** [RE Determination received.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22

Subject: RE: Determination received

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 22, 2019 3:34:28 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 22, 2019 2:22:10 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22

Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 10, 2019 9:49:05 AM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status



**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 28, 2019 3:19:06 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22

Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: emails - Invitation to collaborate  
**Date:** October 10, 2019 9:23:32 AM  
**Attachments:** [RE emails - Invitation to collaborate.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: emails - Invitation to collaborate

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Withheld pursuant to/removed as

s.22

Page 030 of 390

Withheld pursuant to/removed as

s.21

Page 031 of 390 to/à Page 036 of 390

Withheld pursuant to/removed as

s.22

**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** Telephone conversation follow up  
**Date:** October 29, 2019 8:45:00 AM

---

Good morning s.22

s.22

the Silver Root

Taproom Ltd.

If you have any questions please do not hesitate to contact me.

I have removed your s.22 from the file and replace it with the number you provided.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** RE: Report from The Silver Root Taproom Ltd  
**Date:** November 4, 2019 8:10:00 AM

---

Good Morning s.22

I really appreciate this information.  
Thank you for the email, I will forward it to the investigator.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** s.22  
**Sent:** November 3, 2019 9:15 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** Report from The Silver Root Taproom Ltd

Good morning Sophie

I apologize for the delay, s.22

s.22

Please email if you require anything else. s.22

s.22

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Report from The Silver Root Taproom Ltd  
**Date:** November 4, 2019 8:10:59 AM  
**Attachments:** [RE Report from The Silver Root Taproom Ltd.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22

Subject: RE: Report from The Silver Root Taproom Ltd



Page 040 of 390

Withheld pursuant to/removed as

s.22; s.21

Page 041 of 390 to/à Page 042 of 390

Withheld pursuant to/removed as

s.21; s.22

**From:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**To:** s.22  
**Subject:** Demand for Employer Records - Silver Root Taproom Ltd.  
**Date:** October 2, 2019 11:56:00 AM  
**Attachments:** [Enforcement measures and penalties.pdf](#)  
[Silver Root Taproom Ltd.pdf](#)  
[Demand for Employer Records Silver Root Taproom Ltd..pdf](#)

---

Good Afternoon,

I have attached the following:

- Demand for Employer Records
- Applicable factsheets

The attached documents have also been sent by registered mail. Please confirm receipt of this email.

Do not hesitate to contact me if you have any questions.

Thank you,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**To:** s.22  
**Subject:** Demand for Employer Records - The Silver Root Taproom Ltd.  
**Date:** October 18, 2019 12:38:00 PM  
**Attachments:** [Enforcement measures and penalties.pdf](#)  
[Silver Root Taproom Ltd..pdf](#)  
[Demand for Employer Records Silver Root Taproom Ltd..pdf](#)

---

Good Afternoon,

I have attached the following:

- Demand for Employer Records
- Applicable factsheets

The attached documents have also been sent by registered mail. Please confirm receipt of this email.

Do not hesitate to contact me if you have any questions.

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<http://www.gov.bc.ca/EmploymentStandards>

**From:** [Webb, Chantal LBR:EX](#)  
**To:** s.22  
**Subject:** Employment Standards Determination Appeal  
**Date:** January 10, 2020 1:43:35 PM  
**Importance:** High

---

Hi Mr. Hertz, please call me as soon as you can. I have a time-sensitive question regarding your appeal package.

Thank you, Chantal

**Chantal Webb**

Regional Manager

Employment Standards Branch

Ministry of Labour

[chantal.webb@gov.bc.ca](mailto:chantal.webb@gov.bc.ca)

(250) 952-0468

Employment Standards Toll Free Information Line: 1-800-663-3316

Website: [www.labour.gov.bc.ca/esb/](http://www.labour.gov.bc.ca/esb/)

2018 TWU\_ Email signature



**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: Demand for Employer Records - Silver Root Taproom Ltd.  
**Date:** October 2, 2019 11:57:06 AM  
**Attachments:** [Demand for Employer Records - Silver Root Taproom Ltd..msg](#)

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Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: Demand for Employer Records - Silver Root Taproom Ltd.

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: Demand for Employer Records - The Silver Root Taproom Ltd.  
**Date:** October 18, 2019 12:38:27 PM  
**Attachments:** [Demand for Employer Records - The Silver Root Taproom Ltd..msg](#)

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Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

☞  
Subject: Demand for Employer Records - The Silver Root Taproom Ltd.

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: Employment Standards Determination Appeal  
**Date:** January 10, 2020 3:17:26 PM  
**Attachments:** [Employment Standards Determination Appeal.msg](#)

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Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: Employment Standards Determination Appeal



Return to Sender Renvoi à l'expéditeur	
This item is being returned because: Cet objet est retourné pour la raison suivante :	
Unclaimed <input checked="" type="checkbox"/>	Non réclamé <input checked="" type="checkbox"/>
No such Address <input type="checkbox"/>	Adresse inexistante <input type="checkbox"/>
Address Incomplete <input type="checkbox"/>	Adresse incomplète <input type="checkbox"/>
Moved/Unknown <input type="checkbox"/>	Déménagé / Inconnu <input type="checkbox"/>
No such Post Office <input type="checkbox"/>	Bureau inexistant <input type="checkbox"/>
Refused <input type="checkbox"/>	Refusé <input type="checkbox"/>
Amount Due Montant dû	
\$	Initials/Initiales
33 000-648 (09-04)	

James <sup>22</sup> Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

MINISTRY OF LABOUR  
NOV 04 2019  
Victoria Field Office  
Employment Standards Branch

REGISTERED RECOMMANDÉ	
CPC Tracking Number   Numéro de repérage de la SCP RN 268 109 369 CA	
	
RN 268 109 369 CA	
Sender warrants that this shipment does not contain dangerous goods. L'expéditeur garantit que cet envoi ne contient pas de matières dangereuses.	
<input checked="" type="checkbox"/> Signature Required Signature requise	



Ministry of Jobs, Tourism and  
Skills Training and Minister  
Responsible for Labour  
Employment Standards Branch  
Victoria Field Office



Mailing Address:  
PO Box 9571 Stn Prov Govt.  
Victoria BC V8W 9K1



MINISTRY OF LABOUR

NOV 04 2019

Victoria Field Office  
Employment Standards Branch

Silver Root Taproom Ltd.  
Registered and Records Office,  
198 Baker Street  
Nelson, BC V1L 4H2

**Return to Sender**  
**Retour à l'expéditeur**

This item is being  
returned because:

☒ Unclaimed  
No such  
Address  
Incomplete  
Address  
Moved/  
Unknown  
Post Office  
No such  
Address  
Damaged /  
Incomple  
Bureau  
Refused  
Refused  
Amount Due (pay off)

32066-616 (08-04)

Canada Post





October 2, 2019

ER 844529  
Email & Registered Mail

Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC V1L 4H2

Dear James<sup>s.22</sup> Hertz:

**Re: Employment Standards Complaint(s) Silver Root Taproom Ltd.**

The Employment Standards Branch has received complaints filed by<sup>s.22</sup> and<sup>s.22</sup> These former employees indicate that the business has ceased operating and wages are owed as a result. The Director of Employment Standards is conducting an investigation on behalf of all employees or former employees of Silver Root Taproom Ltd in order to ensure wages have been paid as required by the *Employment Standards Act*.

As a delegate of the Director of Employment Standards Officer for the Ministry, I do not represent the complainants; rather, my role is to be an unbiased party representing the government in interpreting the *Employment Standards Act (the Act)* to resolve complaints. Accordingly, I would like to hear from you regarding this matter.

I have enclosed a copy of the complainant forms filed to date. Please refer to these complaint forms for the details of individuals claimed amounts.

Specifically, the complainants indicate that all regular wages have not been paid, including commission wages, statutory holiday pay and vacation pay. As well, some complainants claim they are owed compensation pay for length of service (termination pay).

---

**Ministry Labour**

Employment Standards Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas Street  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476



Should you not be disputing the amounts claimed, I will need you to provide to me payroll records for each former employee. This includes a detailed breakdown of any outstanding wages owed to each employee by you. This would include a complete payroll run for all employees up to and including the last day the employee last worked for the business.

In addition, also provide all details concerning whether employees were provided written notice of termination, layoff or did they quit employment. I will need you to confirm all employees start and end dates. Please provide a copy of the ROE's issued by the company to employees.

In order to assist with this investigation, I have also enclosed a "**Demand for Employer Records**" pursuant to the Act, which outlines some specific records I require. **Please note the deadline for records is Wednesday, October 16, 2019.**

You should also be aware of the following important information with respect to this matter:

1. **Failure to provide the records described in the attached Demand can result in a \$500.00 penalty; and**
2. **Failure to participate in this investigation may result in a formal Determination based solely on the information provided by the complainants.**
3. **If we are required to issue a formal Determination, and that Determination finds that a person has contravened a provision of the Act or Regulation, the person must pay an administrative penalty for each contravention. Administrative penalties are a minimum of \$500.00 for each contravention of a provision.**

This is your opportunity to respond to these complaints. Should you be disputing any of these wage claims please provide me a written response including records to substantiate your position. Please provide any information you feel may be relevant to our investigation of the wages claimed.

If you do not provide the records as set out above by October 10, 2019, a determination will be issued based on the evidence provided by complainants. If the determination finds that the *Employment Standards Act* or Regulation has been contravened and that wages are owed, you will be ordered to pay all outstanding wages as well as a mandatory penalty for each requirement of the Act found to have been contravened.

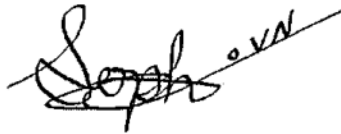
Penalties, the amounts of which are set by regulation, are assessed at \$500 for a first contravention, \$2,500 for a second contravention and \$10,000 thereafter.

Wages constitute a lien and charge in favour of the Director of Employment Standards against all the real and personal property of an employer. This lien takes priority over most other creditors with the exception of the federal government.

Any party to a determination may file an appeal to the Employment Standards Tribunal. On appeal, the Tribunal may refuse to hear evidence that was available but not provided during our investigation.

Your assistance in resolving this matter is appreciated. If you have any questions or wish to discuss this matter further, please call me at 236-478-1876.

Yours truly,

A handwritten signature in black ink, appearing to read 'Sophie' followed by a stylized flourish and the initials 'VN'.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2

cc: James <sup>s.22</sup> Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Attachments



## Demand for Employer Records

October 2, 2019

ER 844529  
Email & Registered Mail

To: Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC, V1L 4H2

Pursuant to section 85 of the Employment Standards Act (the "Act"), Silver Root Taproom Ltd. is required to disclose, produce and deliver all employment records for:

Name: Period:

■ s.22

■

■ All Employees September 3, 2018 to September 3, 2019

The payroll records required are:

- any and all payroll records relating to wages, hours of work and conditions of employment as specified in Section 28 of the Employment Standards Act
- any records relating to the termination of employees including the records of employment and all documents you may rely upon to establish just cause for termination or that employees quit
- any records and all information that support your position that the complainant is a "manager" as defined by the Act.
- hours worked on each day (not a summary)

**You are required** to disclose, produce and deliver the records specified in this Demand to the Employment Standards Branch on or before:

**Wednesday, October 16, 2019 by 4:00 p.m.**

The records may be delivered in person or by mail to Employment Standards Branch, 200-880 Douglas Street., PO Box 9571, Stn Prov Govt., Victoria, BC V8W 9K1 or by email in PDF format to [sophie.vogel-nakamura@gov.bc.ca](mailto:sophie.vogel-nakamura@gov.bc.ca).

Failure to produce these records as required will result in a Determination being issued. Where a Determination contains a finding of a contravention of the Act or Regulation an escalating administrative penalty will be imposed under Section 29 and 46 of the Employment Standards Regulation (minimum \$500.00).

If a determination finds that wages and penalties are owed, **directors and officers of corporations are personally liable** to pay up to two months' wages for each employee and may also be required to pay the penalties resulting from the contraventions.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards  
(236)478-1876

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2  
cc: James<sup>s.22</sup> Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

## **EMPLOYMENT STANDARDS ACT**

(excerpts)

### **Entry and inspection powers**

- 85** (1) For the purposes of ensuring compliance with this Act and the regulations, the director may do one or more of the following:
- (a) enter during regular working hours any place, including any means of conveyance or transport, where
    - (i) work is or has been done or started by employees,
    - (ii) an employer carries on business or stores assets relating to that business,
    - (iii) a record required for the purposes of this Act is kept, or
    - (iv) anything to which this Act applies is taking place or has taken place;
  - (b) inspect, and question a person about, any work, material, appliance, machinery, equipment or other thing in the place;
  - (c) inspect any records that may be relevant to an investigation under this Part;
  - (d) on giving a receipt for a record examined under paragraph (c), remove the record to make copies or extracts;
  - (e) require a person to disclose, either orally or in writing, a matter required under this Act and require that the disclosure be under oath or affirmation;
  - (f) require a person to produce, or to deliver to a place specified by the director, any records for inspection under paragraph (c).
- (2) Despite subsection (1), the director may enter a place occupied as a private residence only with the consent of the occupant or under the authority of a warrant issued under section 120.

### **Payroll records**

- 28** (1) For each employee, an employer must keep records of the following information:
- (a) the employee's name, date of birth, occupation, telephone number and residential address;
  - (b) the date employment began;
  - (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
  - (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;
  - (e) the benefits paid to the employee by the employer;
  - (f) the employee's gross and net wages for each pay period;
  - (g) each deduction made from the employee's wages and the reason for it;
  - (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
  - (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
  - (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.
- (2) Payroll records must
- (a) be in English,
  - (b) be kept at the employer's principal place of business in British Columbia, and
  - (c) be retained by the employer for 4 years after the date on which the payroll records were created.

**EMPLOYMENT STANDARDS REGULATIONS**  
(excerpts)

**Production of records**

**46(1)** A person who is required under section 85 (1) (f) of the Act to produce or deliver records to the director must produce or deliver the records as and when required.

**Administrative penalties**

**29** (1) Subject to section 81 of the Act and any right of appeal under Part 13 of the Act, the following monetary penalties are prescribed for the purposes of section 98(1) of the Act:

- (a) a fine of \$500 if the director determines that a person has contravened a requirement under the Act, unless paragraph (b) or (c) applies;
- (b) a fine of \$2 500 if
  - (i) after the date of a determination under paragraph (a), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (a), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (a),unless paragraph (c) applies;
- (c) a fine of \$10 000 if
  - (i) after the date of a determination under paragraph (b), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (b), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (b).

(1.1) For the purposes of subsection (1), an act or omission of an employer constituting a contravention of a requirement under the Act is deemed to be a single contravention regardless of the number of employees affected by the contravention.

**FAILURE TO COMPLY WITH THIS DEMAND WILL RESULT IN A  
PENALTY BEING ISSUED WITHOUT FURTHER NOTICE.**



**EMPLOYMENT STANDARDS ACT**  
(excerpts)

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) [Repealed 2019-27-30]
  - (c) vacation pay that becomes payable after the director or officer ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (b) any vice chair of the board of directors or other governing body of the corporation, if that vice chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (c) the president of the corporation, regardless of the title by which that person is designated,
  - (d) any vice president in charge of a principal business unit of the corporation, including sales, finance or production, regardless of the title by which that person is designated, and
  - (e) any officer of the corporation, whether or not the officer is also a director of the corporation, who performs a policy-making function in respect of the corporation and who has the capacity to influence the direction of the corporation, regardless of the title by which that person is designated;

**"corporation"** means a corporation as defined in the Business Corporations Act, and includes a corporation that, under section 95 of this Act, the director treats as one employer.

#### **Section 98: Monetary penalties**

98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.

(1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.

(1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.

(2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

(3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person

(a) has been convicted of an offence under this Act or the regulations, or

(b) is also liable to pay a fine for an offence under section 125.

(4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

# Enforcement Measures and Penalties

The Employment Standards Branch assists employers and employees to resolve disputes under the *Employment Standards Act* and *Regulation* through a variety of means such as education, mediation, investigation and adjudication.

## Audits

The Branch may review payroll records for the matter in dispute, or may require an audit of the Employer's entire payroll. This audit may be done by the Branch, or the employer may be required to do it and have it checked by the Branch.

## Determinations

If voluntary resolution of a dispute is not achieved, the Branch will decide the matter and issue a written decision called a determination.

If a determination finds that an employer has contravened the Act or Regulation, the employer is ordered to pay any wages owed to the employee. The employer is also ordered to pay a mandatory penalty for each requirement of the Act or Regulation found to have been contravened.

## Penalties

Penalties for contraventions of the Act and Regulation are as follows:

- First Contravention: \$500.

- Contravention of the same requirement at the same location within three years of the first contravention: \$2,500.
- Contravention of the same requirement at the same location within three years of the second contravention: \$10,000.

## Interest

If a determination is issued, the employer is ordered to pay interest on unpaid wages owing to an employee. Interest is calculated from the earlier of the date of the employee's termination or the date the complaint was filed to the date of payment. Interest is charged at the prime lending rate of the government's banker.

## Lien for Unpaid Wages

Unpaid wages are a lien, or legal claim, against the property of the employer. The lien takes effect at the time the wages were earned. These liens take priority over all other claims, including a claim of the provincial government, with the exception of a prior-registered mortgage or debenture against land.

## Demands on Third Parties

The Branch can make demands on third parties to recover money owing under a determination, a settlement agreement or an order of the Employment Standards Tribunal.

*continued ...*

If a third party is or will be indebted to a person who is required to pay money under a determination, the Branch may demand that the third party pay all or part of their indebtedness directly to the Branch. If the third party does not comply with the demand, the Branch may begin collection action directly against the third party.

### Court Judgments

A determination, a settlement agreement, or an order of the Employment Standards Tribunal may be filed at any time in Supreme Court and enforced as a judgment of the Court.

### Seizing Assets

The Branch may seize assets of a person required to pay under a determination, settlement agreement or order to satisfy the amount owing and the costs of the seizure. The Branch may direct the Court Bailiff to seize assets to recover the amount owing. The bailiff will also recover his costs in accordance with the *Court Order Enforcement Act*.

### Certificates of Judgment

The Branch may register a Certificate of Judgment against land owned by a person required to pay money under a determination, settlement agreement or order.

### Corporate Officer Liability

A director or officer of a corporation is personally liable for up to two months' unpaid wages per employee if the director or officer held office when the wages were earned or payable.

A director or officer is **not** liable for:

- Compensation for length of service or group termination pay if the corporate employer is in receivership or is the subject of a bankruptcy or insolvency proceeding; **unless** the Director of Employment Standards has issued a

determination ordering a director or officer to pay wages **before** the date of receivership, bankruptcy or insolvency proceeding;

- Vacation pay that becomes payable after the director or officer leaves office;
- Money that remains in an employee's time bank after the director or officer leaves office.

A director or officer of the corporation who authorizes, permits or acquiesces in a contravention of the Act or Regulation is also subject to penalties.

### Security to Ensure Compliance

An employer who at any time has contravened a requirement concerning the payment of wages may be required by the Branch to post a bond, or to provide an irrevocable letter of credit or other security, to help ensure future compliance.

### Publishing Violators' Names

The Director of Employment Standards may compile and publish information about contraventions of the Act and Regulation and make this information public.



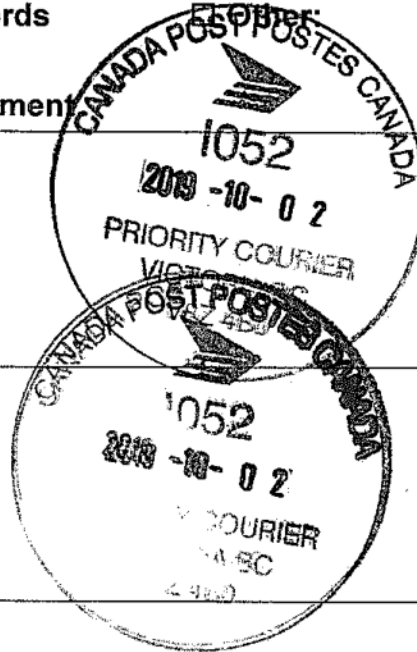
# REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: TAMI WILSON Employer #: 844529 Employer Name: Silver Root Taproom Ltd. Event:	Date: OCT. 2, 2019 Mailed by: SOPHIE VOGEL Telephone no:

- ☐ Hearing Notice      ☒ Demand for Records  
☒ Fact Sheets      ☒ Letter  
☐ Determination      ☐ Settlement Agreement

Silver Root Taproom Ltd.  
 Registered and Records Office,  
 198 Baker Street  
 Nelson, BC V1L 4H2  RN 268 109 409 CA

James <sup>s.22</sup> Hertz  
 198 Baker Street  
 Nelson, BC V1L 4H2  RN 268 109 369 CA

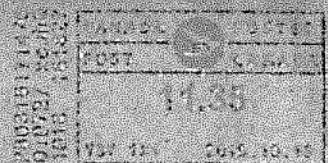


**MINISTRY OF LABOUR**  
  
 OCT 03 2019  
  
 Victoria Field Office  
 Employment Standards Branch



Ministry of Labour  
Employment Standards Branch  
Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



11/05

RTS

James<sup>s.22</sup> Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

MINISTRY OF LABOUR  
NOV 19 2019  
Victoria Field Office  
Employment Standards Branch



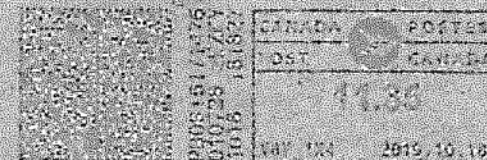


Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



RTS

MINISTRY OF LABOUR

NOV 19 2019

Victoria Field Office  
Employment Standards Branch

11/05

The Silver Root Taproom Ltd.  
Registered and Records Office  
198 Baker Street  
Nelson, BC V1L 4H2





October 2, 2019

ER 844529  
Email & Registered Mail

The Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC V1L 4H2

Dear James<sup>s.22</sup> Hertz:

**Re: Employment Standards Complaint(s) The Silver Root Taproom Ltd.**

The Employment Standards Branch has received complaints filed by<sup>s.22</sup> and<sup>s.22</sup> These former employees indicate that the business has ceased operating and wages are owed as a result. The Director of Employment Standards is conducting an investigation on behalf of all employees or former employees of The Silver Root Taproom Ltd. in order to ensure wages have been paid as required by the *Employment Standards Act*.

As a delegate of the Director of Employment Standards Officer for the Ministry, I do not represent the complainants; rather, my role is to be an unbiased party representing the government in interpreting the *Employment Standards Act (the Act)* to resolve complaints. Accordingly, I would like to hear from you regarding this matter.

I have enclosed a copy of the complainant forms filed to date. Please refer to these complaint forms for the details of individuals claimed amounts.

Specifically, the complainants indicate that all regular wages have not been paid, including commission wages, statutory holiday pay and vacation pay. As well, some complainants claim they are owed compensation pay for length of service (termination pay).

---

**Ministry Labour**

Employment Standards Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas Street  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476



Should you not be disputing the amounts claimed, I will need you to provide to me payroll records for each former employee. This includes a detailed breakdown of any outstanding wages owed to each employee by you. This would include a complete payroll run for all employees up to and including the last day the employee last worked for the business.

In addition, also provide all details concerning whether employees were provided written notice of termination, layoff or did they quit employment. I will need you to confirm all employees start and end dates. Please provide a copy of the ROE's issued by the company to employees.

In order to assist with this investigation, I have also enclosed a "**Demand for Employer Records**" pursuant to the Act, which outlines some specific records I require. **Please note the deadline for records is Wednesday, October 16, 2019.**

You should also be aware of the following important information with respect to this matter:

1. **Failure to provide the records described in the attached Demand can result in a \$500.00 penalty; and**
2. **Failure to participate in this investigation may result in a formal Determination based solely on the information provided by the complainants.**
3. **If we are required to issue a formal Determination, and that Determination finds that a person has contravened a provision of the Act or Regulation, the person must pay an administrative penalty for each contravention. Administrative penalties are a minimum of \$500.00 for each contravention of a provision.**

This is your opportunity to respond to these complaints. Should you be disputing any of these wage claims please provide me a written response including records to substantiate your position. Please provide any information you feel may be relevant to our investigation of the wages claimed.

If you do not provide the records as set out above by October 10, 2019, a determination will be issued based on the evidence provided by complainants. If the determination finds that the *Employment Standards Act* or Regulation has been contravened and that wages are owed, you will be ordered to pay all outstanding wages as well as a mandatory penalty for each requirement of the Act found to have been contravened.

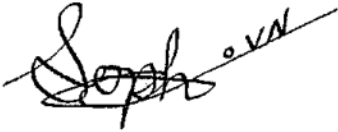
Penalties, the amounts of which are set by regulation, are assessed at \$500 for a first contravention, \$2,500 for a second contravention and \$10,000 thereafter.

Wages constitute a lien and charge in favour of the Director of Employment Standards against all the real and personal property of an employer. This lien takes priority over most other creditors with the exception of the federal government.

Any party to a determination may file an appeal to the Employment Standards Tribunal. On appeal, the Tribunal may refuse to hear evidence that was available but not provided during our investigation.

Your assistance in resolving this matter is appreciated. If you have any questions or wish to discuss this matter further, please call me at 236-478-1876.

Yours truly,

A handwritten signature in black ink, appearing to read 'Sophie', followed by a horizontal line and a small 'VN' monogram.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2

cc: James <sup>s.22</sup> Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Attachments



## Demand for Employer Records

October 2, 2019

ER 844529  
Email & Registered Mail

To: The Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC, V1L 4H2

Pursuant to section 85 of the Employment Standards Act (the "Act"), The Silver Root Taproom Ltd. is required to disclose, produce and deliver all employment records for:

Name: Period:  
▪ s.22  
▪  
▪ All Employees September 3, 2018 to September 3, 2019

The payroll records required are:

- any and all payroll records relating to wages, hours of work and conditions of employment as specified in Section 28 of the Employment Standards Act
- any records relating to the termination of employees including the records of employment and all documents you may rely upon to establish just cause for termination or that employees quit
- any records and all information that support your position that the complainant is a "manager" as defined by the Act.
- hours worked on each day (not a summary)

**You are required** to disclose, produce and deliver the records specified in this Demand to the Employment Standards Branch on or before:

**Wednesday, October 16, 2019 by 4:00 p.m.**

The records may be delivered in person or by mail to Employment Standards Branch, 200-880 Douglas Street., PO Box 9571, Stn Prov Govt., Victoria, BC V8W 9K1 or by email in PDF format to [sophie.vogel-nakamura@gov.bc.ca](mailto:sophie.vogel-nakamura@gov.bc.ca).

Failure to produce these records as required will result in a Determination being issued. Where a Determination contains a finding of a contravention of the Act or Regulation an escalating administrative penalty will be imposed under Section 29 and 46 of the Employment Standards Regulation (minimum \$500.00).

If a determination finds that wages and penalties are owed, **directors and officers of corporations are personally liable** to pay up to two months' wages for each employee and may also be required to pay the penalties resulting from the contraventions.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards  
(236)478-1876

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2  
cc: James s.22 Hertz, 198 Baker Street, Nelson, BC V1L 4H2

**Ministry of Labour**

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

## **EMPLOYMENT STANDARDS ACT**

(excerpts)

### **Entry and inspection powers**

- 85 (1) For the purposes of ensuring compliance with this Act and the regulations, the director may do one or more of the following:
- (a) enter during regular working hours any place, including any means of conveyance or transport, where
    - (i) work is or has been done or started by employees,
    - (ii) an employer carries on business or stores assets relating to that business,
    - (iii) a record required for the purposes of this Act is kept, or
    - (iv) anything to which this Act applies is taking place or has taken place;
  - (b) inspect, and question a person about, any work, material, appliance, machinery, equipment or other thing in the place;
  - (c) inspect any records that may be relevant to an investigation under this Part;
  - (d) on giving a receipt for a record examined under paragraph (c), remove the record to make copies or extracts;
  - (e) require a person to disclose, either orally or in writing, a matter required under this Act and require that the disclosure be under oath or affirmation;
  - (f) require a person to produce, or to deliver to a place specified by the director, any records for inspection under paragraph (c).
- (2) Despite subsection (1), the director may enter a place occupied as a private residence only with the consent of the occupant or under the authority of a warrant issued under section 120.

### **Payroll records**

- 28 (1) For each employee, an employer must keep records of the following information:
- (a) the employee's name, date of birth, occupation, telephone number and residential address;
  - (b) the date employment began;
  - (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
  - (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;
  - (e) the benefits paid to the employee by the employer;
  - (f) the employee's gross and net wages for each pay period;
  - (g) each deduction made from the employee's wages and the reason for it;
  - (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
  - (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
  - (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.
- (2) Payroll records must
- (a) be in English,
  - (b) be kept at the employer's principal place of business in British Columbia, and
  - (c) be retained by the employer for 4 years after the date on which the payroll records were created.

## **EMPLOYMENT STANDARDS REGULATIONS**

(excerpts)

### **Production of records**

**46(1)** A person who is required under section 85 (1) (f) of the Act to produce or deliver records to the director must produce or deliver the records as and when required.

### **Administrative penalties**

**29** (1) Subject to section 81 of the Act and any right of appeal under Part 13 of the Act, the following monetary penalties are prescribed for the purposes of section 98(1) of the Act:

- (a) a fine of \$500 if the director determines that a person has contravened a requirement under the Act, unless paragraph (b) or (c) applies;
- (b) a fine of \$2 500 if
  - (i) after the date of a determination under paragraph (a), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (a), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (a),unless paragraph (c) applies;
- (c) a fine of \$10 000 if
  - (i) after the date of a determination under paragraph (b), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (b), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (b).

- (1.1) For the purposes of subsection (1), an act or omission of an employer constituting a contravention of a requirement under the Act is deemed to be a single contravention regardless of the number of employees affected by the contravention.

**FAILURE TO COMPLY WITH THIS DEMAND WILL RESULT IN A  
PENALTY BEING ISSUED WITHOUT FURTHER NOTICE.**

**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) [Repealed 2019-27-30]
  - (c) vacation pay that becomes payable after the director or officer ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (b) any vice chair of the board of directors or other governing body of the corporation, if that vice chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (c) the president of the corporation, regardless of the title by which that person is designated,
  - (d) any vice president in charge of a principal business unit of the corporation, including sales, finance or production, regardless of the title by which that person is designated, and
  - (e) any officer of the corporation, whether or not the officer is also a director of the corporation, who performs a policy-making function in respect of the corporation and who has the capacity to influence the direction of the corporation, regardless of the title by which that person is designated;

"corporation" means a corporation as defined in the Business Corporations Act, and includes a corporation that, under section 95 of this Act, the director treats as one employer.

#### **Section 98: Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.
- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
- (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

# Enforcement Measures and Penalties

The Employment Standards Branch assists employers and employees to resolve disputes under the *Employment Standards Act* and Regulation through a variety of means such as education, mediation, investigation and adjudication.

## Audits

The Branch may review payroll records for the matter in dispute, or may require an audit of the Employer's entire payroll. This audit may be done by the Branch, or the employer may be required to do it and have it checked by the Branch.

## Determinations

If voluntary resolution of a dispute is not achieved, the Branch will decide the matter and issue a written decision called a determination.

If a determination finds that an employer has contravened the Act or Regulation, the employer is ordered to pay any wages owed to the employee. The employer is also ordered to pay a mandatory penalty for each requirement of the Act or Regulation found to have been contravened.

## Penalties

Penalties for contraventions of the Act and Regulation are as follows:

- First Contravention: \$500.

- Contravention of the same requirement at the same location within three years of the first contravention: \$2,500.
- Contravention of the same requirement at the same location within three years of the second contravention: \$10,000.

## Interest

If a determination is issued, the employer is ordered to pay interest on unpaid wages owing to an employee. Interest is calculated from the earlier of the date of the employee's termination or the date the complaint was filed to the date of payment. Interest is charged at the prime lending rate of the government's banker.

## Lien for Unpaid Wages

Unpaid wages are a lien, or legal claim, against the property of the employer. The lien takes effect at the time the wages were earned. These liens take priority over all other claims, including a claim of the provincial government, with the exception of a prior-registered mortgage or debenture against land.

## Demands on Third Parties

The Branch can make demands on third parties to recover money owing under a determination, a settlement agreement or an order of the Employment Standards Tribunal.

*continued ...*



If a third party is or will be indebted to a person who is required to pay money under a determination, the Branch may demand that the third party pay all or part of their indebtedness directly to the Branch. If the third party does not comply with the demand, the Branch may begin collection action directly against the third party.

### Court Judgments

A determination, a settlement agreement, or an order of the Employment Standards Tribunal may be filed at any time in Supreme Court and enforced as a judgment of the Court.

### Seizing Assets

The Branch may seize assets of a person required to pay under a determination, settlement agreement or order to satisfy the amount owing and the costs of the seizure. The Branch may direct the Court Bailiff to seize assets to recover the amount owing. The bailiff will also recover his costs in accordance with the *Court Order Enforcement Act*.

### Certificates of Judgment

The Branch may register a Certificate of Judgment against land owned by a person required to pay money under a determination, settlement agreement or order.

### Corporate Officer Liability

A director or officer of a corporation is personally liable for up to two months' unpaid wages per employee if the director or officer held office when the wages were earned or payable.

A director or officer is **not** liable for:

- Compensation for length of service or group termination pay if the corporate employer is in receivership or is the subject of a bankruptcy or insolvency proceeding; **unless** the Director of Employment Standards has issued a

determination ordering a director or officer to pay wages **before** the date of receivership, bankruptcy or insolvency proceeding;

- Vacation pay that becomes payable after the director or officer leaves office;
- Money that remains in an employee's time bank after the director or officer leaves office.

A director or officer of the corporation who authorizes, permits or acquiesces in a contravention of the Act or Regulation is also subject to penalties.

### Security to Ensure Compliance

An employer who at any time has contravened a requirement concerning the payment of wages may be required by the Branch to post a bond, or to provide an irrevocable letter of credit or other security, to help ensure future compliance.

### Publishing Violators' Names

The Director of Employment Standards may compile and publish information about contraventions of the Act and Regulation and make this information public.




# REGISTERED MAIL TRACE SHEET


Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: SOPHIE Employer #: Employer Name: The Silver Root Taproom Ltd. Event:	Date: 2019 10 18 Mailed by: SVN Telephone no:

- ☐ Hearing Notice
 ☒ Demand for Records
 ☐ Other:
 ☐ Fact Sheets
 ☒ Letter (No contact)
 ☐ Determination
 ☐ Settlement Agreement


The Silver Root Taproom Ltd.  
Registered and Records Office  
198 Baker Street  
Nelson, BC V1L 4H2

 RN 268 110 543 CA

s.22  
James Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

 RN 268 110 509 CA

s.22

 RN 268 110 526 CA



Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



RETENUE EN DROIT DE  
REVENUE A L'ENVOI  
Unclaimed  
Non réclamé  
**The Silver Root Taproom Ltd.**  
Registered and Records office  
198 BAKER STREET  
NELSON BC V1L 4H2

MINISTRY OF LABOUR

JAN 21 2020

Victoria Field Office  
Employment Standards Branch





**Ministry of Labour**

Employment Standards Branch

Victoria Field Office

Mailing Address:

PO Box 9571 Stn Prov Govt

Victoria BC V8W 9K1



NOT AT  
THIS ADDRESS

**The Silver Root Taproom Ltd.**  
Registered and Records office  
198 BAKER STREET  
NELSON BC V1L 4H2

**MINISTRY OF LABOUR**

**JAN 20 2020**

Victoria Field Office  
Employment Standards Branch



MOVED / UNKNOWN // DEMENAGE OU INCONNU  
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RENOI A L'EXPEDITEUR  
V8W 9K1



Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:

PO Box 9571 Stn Prov Govt

Victoria BC V8W 9K1



NOT AT THIS ADDRESS

s.22  
James Hertz  
198 BAKER ST  
NELSON BC V1L 4H2  
CANADA

MINISTRY OF LABOUR

JAN 20 2020

Victoria Field Office  
Employment Standards Branch



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RETURN TO SENDER  
REVOI A L'EXPEDITEUR  
V8W 9K1



## Determination

Sent by Registered Mail and Regular Mail

ER # 844529

November 29, 2019

The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
198 Baker Street  
Nelson BC V1L 4H2

### **Director of Employment Standards – and – The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse**

I have determined that the *Employment Standards Act* (the "Act") and the *Employment Standards Regulation* (the "Regulation") has been contravened. Accordingly, s.22  
s.22 is entitled to wages and interest. Pursuant to section 79 of the Act, I require The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay the following:

Wages (section 17 of the Act)	\$ 2,110.26
Annual vacation pay (section 58 of the Act)	\$ 330.57
Gratuities (section 30.3 of the Act)	\$ 81.33
Accrued interest (section 88 of the Act)	\$ 45.31
<b>A. Wages payable to employee</b>	<b>\$ 2,567.47</b>

Section 98(1) of the Act requires that a mandatory administrative penalty be imposed for each contravention of a requirement of the Act or the Regulation. Penalty amounts are set out in section 29(1) of the Regulation.

Contravention	Work Location	Date of Contravention	Occurrence (within 3 years)	Amount
Section 18	198 Baker Street Nelson, BC	s.22	First	\$ 500.00
Section 17	198 Baker Street Nelson, BC		First	\$ 500.00
Section 58	198 Baker Street Nelson, BC		First	\$ 500.00
Section 30.3	198 Baker Street Nelson, BC		First	\$ 500.00
Section 46	198 Baker Street Nelson, BC		First	\$ 500.00
<b>B. Total administrative penalty amount</b>				<b>\$ 2,500.00</b>
<b>C. Total amount payable</b>				<b>\$ 5,067.47</b>

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to cease contravening the section of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay \$ 5,067.47. Please send a certified cheque or money order, payable to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria, B.C., V8W 9K1, within five working days.

If statutory deductions are withheld from the wages payable to the employee (line A), include a statement indicating the individual amounts remitted to Canada Revenue Agency. The administrative penalty (line B) is not subject to statutory deductions.

**A person named in a Determination may make a written request for reasons for the Determination.** Your request must be delivered to an office of the Employment Standards Branch **by** December 16, 2019.

If payment is not received by the end of the appeal period noted below, additional interest will accrue.

A Determination may be filed in British Columbia Supreme Court and collection proceedings commenced **without further notice**. This may include the issuance of a writ of seizure and sale to be executed by the Court Bailiff. Any fees and costs incurred by the Court Bailiff will be added to the Determination amount owing and will be charged to the Employer.

Under the Act, directors and officers of companies can also be required to pay wages owed to employees. Directors and officers who authorize, permit or acquiesce in a contravention of the Act are also liable for the total administrative penalty amount.

The Director may publish information relating to contraventions of the Act or Regulation including the identity of persons named in a Determination.



Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Complainant

cc: Jamess.22 Hertz, Director, 198 Baker Street, Nelson, BC V1L 4H2

#### Appeal Information

Should you wish to appeal this Determination, your appeal must be delivered to the **Employment Standards Tribunal** by 4:30 pm on **January 6, 2020**. Your appeal must include a copy of the Director's written reasons for the Determination.

The Employment Standards Tribunal is separate and independent from the Employment Standards Branch. Information on how to appeal a Determination can be found on the Tribunal's website at [www.bcest.bc.ca](http://www.bcest.bc.ca) or by phone at (604) 775-3512.

**81** (1.1) A person named in a determination under subsection (1) may request from the director written reasons for the determination.

(1.2) A request under subsection (1.1) must be in writing and delivered to the director within 7 days of the person being served with the copy of the determination under subsection (1).

(1.3) On receipt of a request under and in accordance with subsections (1.1) and (1.2), the director must provide the person named in the determination with written reasons for that determination.

#### **Appeal of director's determination**

**112** (2) A person who wishes to appeal a determination to the tribunal under subsection (1) must, within the appeal period established under subsection (3),

(a) deliver to the office of the tribunal

(i) a written request specifying the grounds on which the appeal is based under subsection (1),

(i.1) a copy of the director's written reasons for the determination, and

(ii) payment of the appeal fee, if any, prescribed by regulation, and

(b) deliver a copy of the request under paragraph (a) (i) to the director.



## **NOTICE TO DIRECTORS / OFFICERS**

If a director/officer of the company which is the subject of the attached Determination disputes any of the findings contained in the Determination, he or she should ensure that the company files an appeal within the appeal period noted in the Determination.

If the Determination against the company is not appealed, or is appealed and confirmed by the Employment Standards Tribunal, the Employment Standards Branch will commence collection proceedings if voluntary payment is not made. If the Employment Standards Branch has difficulty collecting against the company, proceedings will be commenced against the directors/officers of the company for the amount of their personal liability as set out in the Act. A director or officer may also be held liable for a penalty imposed on the company if he or she authorized, permitted or acquiesced in the company's contravention.

If a Determination is issued against a director/officer of a company, the director/officer may not argue the merits of the Determination against the company by appealing the director/officer Determination.

There are only three grounds on which a Determination made against a director/officer may be appealed:

- 1) That the person appealing was not a director/officer of the company at the time wages were earned or should have been paid;
- 2) That the calculation of the director/officer's personal liability is incorrect; and/or,
- 3) That the director/officer should not be liable for the penalty, where a penalty has been imposed, on the grounds that he or she did not authorize, permit or acquiesce in the company's contravention.

The Employment Standards Branch obtains information about directors and officers from the Registrar of Companies through BC OnLine. If information regarding a director or officer's standing with a company is not current with the Registrar of Companies it is his or her responsibility to provide updated information to the Employment Standards Branch.

**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

**Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).

**Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
- (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

Page 084 of 390 to/à Page 085 of 390

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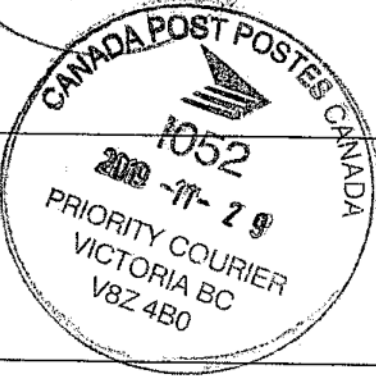
s.22

Canada  
2019/11/2

# REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: SOPHIE Employer #: ER 844529 Employer Name: The Silver Root Taproom Ltd. Event: COBA Silver Root Taphouse	Date: 2019 11 29 Mailed by: SVN Telephone no:

- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

James s.22 Hertz s.22 RN 268 034 555 CA	
James s.22 Hertz 198 BAKER ST NELSON BC V1L 4H2 CANADA RN 268 047 474 CA	
s.22 RN 268 034 541 CA	
James s.22 Hertz Registered and records office 198 Baker St. Nelson, BC V1L 4H2 CANADA. RN 268 047 505 CA	
MINISTRY OF LABOUR DEC 02 2019 Victoria Field Office Employment Standards Branch	

## Track

Track your items using tracking, delivery notice card, or reference numbers.

### Tracking numbers

Enter up to 24 items, separated by commas or line breaks

Track

### Recently tracked items

#### Details



RN268109260CA

Item successfully returned to sender's mailroom

Last updated: Nov. 4, 2019



RN268109409CA

Item successfully returned to sender's mailroom

Last updated: Nov. 4, 2019



RN268047505CA

Item successfully returned to sender's mailroom

Last updated: Jan. 21



RN268034541CA

Delivered

Last updated: Dec. 6, 2019



RN268047474CA

Delivered

Last updated: Dec. 6, 2019



Page 82 of 97

## Track

Track your items using tracking, delivery notice card, or reference numbers.









### Tracking numbers

Enter up to 24 items, separated by commas or line breaks.

Track

### Recently tracked items

#### Details

	RN266110526CA Delivered Last updated: Oct. 23, 2019	
	RN266110509CA Item successfully returned to sender's mailroom Last updated: Nov. 19, 2019	
	RN266110543CA Item successfully returned to sender's mailroom Last updated: Nov. 19, 2019	
	RN266024555CA Delivered Last updated: Dec. 6, 2019	

Delete all items

Page 83 of 97



Read the Tribunal's guide on How to Prepare and File an Appeal and refer to the Tribunal's Rules of Practice and Procedure before completing this form. If you have questions about the appeal process, please contact the Tribunal by telephone at 604-775-3512 or by e-mail at registrar@bcest.bc.ca.

Documents submitted to the Tribunal as part of your appeal are disclosed to the other parties to the appeal.

**1. Type of Determination being appealed**

(Note: A separate appeal form is required and must be completed for each determination you wish to appeal.)

- ☐ a Determination issued under the *Employment Standards Act* ("ESA")
- ☐ a Determination issued under the *Temporary Foreign Worker Protection Act* ("TFWPA")

**2. Appeal Deadline**

The statutory appeal deadline is Jan 8<sup>th</sup> / 19. (The appeal deadline is found in the Determination.)

**3. Appellant (person or entity served with the Determination who is appealing)**

s.22

Name

James Hertz

s.22

Address

City

s.22

Province

BC

Postal Code

s.22

Phone

Facsimile

E-mail

s.22

**4. Appellant's lawyer or agent (if applicable)**

Name

Address

City

Province

Postal Code

Phone

Facsimile

E-mail

**5. Select your ground(s) of appeal? (see s. 112(1) of the ESA or s. 68(1) of the TFWPA)**

- ☒ The Director of Employment Standards erred in law.
- ☐ The Director of Employment Standards failed to observe the principles of natural justice in making the Determination.
- ☐ Evidence has become available that was not available at the time the Determination was being made.





6. Provide your reasons and arguments for your appeal.

On a separate sheet of paper, provide your full and complete written submissions on each ground of appeal and attach any supporting documents. In your submission to the Tribunal, please redact any instances of a Social Insurance Number or Date of Birth from the documents in your submission.

7. ☐ I am requesting an extension to the statutory appeal period (ESA s. 109(1)(b) or TFWPA 66(1)(a))

I would like the appeal period deadline extended to \_\_\_\_\_.

On a separate sheet of paper, provide a reasonable and credible explanation for the extension sought. If you are filing your appeal after the appeal period has expired, provide a reasonable and credible explanation for failing to request an appeal within the statutory limit.

[Although Tribunal staff may grant extensions of time for parties to provide documents to the Tribunal, it is the Panel assigned to the appeal who will decide the Appellant's request for an extension to the statutory appeal period.]

8. Sign and date this Appeal Form

Signature

Date

Print Name

If you are submitting this appeal on behalf of a company or an organization, what is your relationship to the organization? (example: director, officer, manager) \_\_\_\_\_

**Appeal Submission Checklist**

Submit the following documents to the Tribunal by mail to Suite 650, 1066 West Hastings Street, Vancouver, BC V6E 3X1 or by e-mail to registrar@bcest.bc.ca, or by fax to 604-775-3372.

- ☐ Completed and signed Appeal Form (2 pages)
- ☐ Written reasons and argument supporting the ground(s) of appeal
- ☐ Any documents that support your appeal
- ☐ Written reasons for requesting an extension to the statutory appeal period (if applicable)
- ☐ A complete copy of the Determination
- ☐ A complete copy of the Reasons for the Determination

Page 091 of 390 to/à Page 092 of 390

Withheld pursuant to/removed as

s.21; s.22

James Hertz

s.22



MINISTRY OF LABOUR  
JAN 10 2020  
Victoria Field Office  
Employment Standards Branch

PO Box 9571 str Prou Gout  
Suite 200 - 880 Douglas St.  
Victoria BC V8W 9K1



## Determination

Sent by Registered Mail and Regular Mail

ER # 844529

November 29, 2019

The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
198 Baker Street  
Nelson BC V1L 4H2

**Director of Employment Standards – and – The Silver Root Taproom Ltd. carrying  
on business as Silver Root Taphouse**

I have determined that the *Employment Standards Act* (the "Act") and the *Employment Standards Regulation* (the "Regulation") has been contravened. Accordingly, <sup>s.22</sup>  
s.22 is entitled to wages and interest. Pursuant to section 79 of the Act, I require  
The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay the  
following:

Wages (section 17 of the Act)	\$ 2,110.26
Annual vacation pay (section 58 of the Act)	\$ 330.57
Gratuities (section 30.3 of the Act)	\$ 81.33
Accrued interest (section 88 of the Act)	\$ 45.31
<b>A. Wages payable to employee</b>	<b>\$ 2,567.47</b>

Section 98(1) of the Act requires that a mandatory administrative penalty be imposed for each contravention of a requirement of the Act or the Regulation. Penalty amounts are set out in section 29(1) of the Regulation.

Contravention	Work Location	Date of Contravention	Occurrence (within 3 years)	Amount
Section 18	198 Baker Street Nelson, BC	s.22	First	\$ 500.00
Section 17	198 Baker Street Nelson, BC		First	\$ 500.00
Section 58	198 Baker Street Nelson, BC		First	\$ 500.00
Section 30.3	198 Baker Street Nelson, BC		First	\$ 500.00
Section 46	198 Baker Street Nelson, BC		First	\$ 500.00
<b>B. Total administrative penalty amount</b>				<b>\$ 2,500.00</b>
<b>C. Total amount payable</b>				<b>\$ 5,067.47</b>

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to cease contravening the section of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay \$ 5,067.47. Please send a certified cheque or money order, payable to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria, B.C., V8W 9K1, within five working days.

If statutory deductions are withheld from the wages payable to the employee (line A), include a statement indicating the individual amounts remitted to Canada Revenue Agency. The administrative penalty (line B) is not subject to statutory deductions.

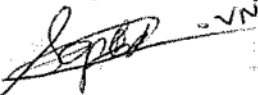
**A person named in a Determination may make a written request for reasons for the Determination.** Your request must be delivered to an office of the Employment Standards Branch **by** December 16, 2019.

If payment is not received by the end of the appeal period noted below, additional interest will accrue.

A Determination may be filed in British Columbia Supreme Court and collection proceedings commenced **without further notice**. This may include the issuance of a writ of seizure and sale to be executed by the Court Bailiff. Any fees and costs incurred by the Court Bailiff will be added to the Determination amount owing and will be charged to the Employer.

Under the Act, directors and officers of companies can also be required to pay wages owed to employees. Directors and officers who authorize, permit or acquiesce in a contravention of the Act are also liable for the total administrative penalty amount.

The Director may publish information relating to contraventions of the Act or Regulation including the identity of persons named in a Determination.



Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Complainant

cc: James S.22 Hertz, Director, 198 Baker Street, Nelson, BC V1L 4H2

#### Appeal Information

Should you wish to appeal this Determination, your appeal must be delivered to the **Employment Standards Tribunal** by 4:30 pm on January 6, 2020. **Your appeal must include a copy of the Director's written reasons for the Determination.**

The Employment Standards Tribunal is separate and independent from the Employment Standards Branch. Information on how to appeal a Determination can be found on the Tribunal's website at [www.bcest.bc.ca](http://www.bcest.bc.ca) or by phone at (604) 775-3512.

**81** (1.1) A person named in a determination under subsection (1) may request from the director written reasons for the determination.

(1.2) A request under subsection (1.1) must be in writing and delivered to the director within 7 days of the person being served with the copy of the determination under subsection (1).

(1.3) On receipt of a request under and in accordance with subsections (1.1) and (1.2), the director must provide the person named in the determination with written reasons for that determination.

#### **Appeal of director's determination**

**112** (2) A person who wishes to appeal a determination to the tribunal under subsection (1) must, within the appeal period established under subsection (3),

(a) deliver to the office of the tribunal

(i) a written request specifying the grounds on which the appeal is based under subsection (1),

(i.1) a copy of the director's written reasons for the determination, and

(ii) payment of the appeal fee, if any, prescribed by regulation, and

(b) deliver a copy of the request under paragraph (a) (i) to the director.

## NOTICE TO DIRECTORS / OFFICERS

If a director/officer of the company which is the subject of the attached Determination disputes any of the findings contained in the Determination, he or she should ensure that the company files an appeal within the appeal period noted in the Determination.

If the Determination against the company is not appealed, or is appealed and confirmed by the Employment Standards Tribunal, the Employment Standards Branch will commence collection proceedings if voluntary payment is not made. If the Employment Standards Branch has difficulty collecting against the company, proceedings will be commenced against the directors/officers of the company for the amount of their personal liability as set out in the Act. A director or officer may also be held liable for a penalty imposed on the company if he or she authorized, permitted or acquiesced in the company's contravention.

If a Determination is issued against a director/officer of a company, the director/officer may not argue the merits of the Determination against the company by appealing the director/officer Determination.

There are only three grounds on which a Determination made against a director/officer may be appealed:

- 1) That the person appealing was not a director/officer of the company at the time wages were earned or should have been paid;
- 2) That the calculation of the director/officer's personal liability is incorrect; and/or,
- 3) That the director/officer should not be liable for the penalty, where a penalty has been imposed, on the grounds that he or she did not authorize, permit or acquiesce in the company's contravention.

The Employment Standards Branch obtains information about directors and officers from the Registrar of Companies through BC OnLine. If information regarding a director or officer's standing with a company is not current with the Registrar of Companies it is his or her responsibility to provide updated information to the Employment Standards Branch.

**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

**Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).

**Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.



Page 099 of 390 to/à Page 100 of 390

Withheld pursuant to/removed as

s.22

- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
  - (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

Page 102 of 390

Withheld pursuant to/removed as

s.22

**EMPLOYMENT STANDARDS BRANCH ('ESB')**  
**LIST OF DOCUMENTS/REDACTIONS**

**EMPLOYER:** s.22

PAGE NO.	DESCRIPTION	INTRODUCED BY:	NO. OF PAGES	REDACTIONS OR NOTES	REDACTED BY
<b>Employment Standards Branch</b>					
1	<b>BC Company Searches</b> (not disclosed to any party)	ESB	1		
2	<b>Complainant's complaint form</b> (not disclosed to Employer)	Employee	3		
5	<b>Workflow sheet</b> (not disclosed to any party)	ESB	1		
6	<b>Email Correspondence</b> s.22 (not disclosed to Employer)	ESB/Employee	9		
15	<b>Delivery Receipts –</b> s.22 (not disclosed to any party)	ESB	9		
24	<b>Employee Evidence –</b> s.22 (not disclosed to Employer)	ESB/Employee	7		
31	<b>Email Correspondence</b> s.22 (not disclosed to Employer)	ESB	2		
34	<b>Delivery Receipt –</b> s.22 (not disclosed to Employer)	ESB	1		
35	<b>Attachments from email correspondence</b> s.22 (not disclosed to Employer)	Accountant	3		
38	<b>Email to Employer</b> (not disclosed to Employee or s.22)	ESB	3		
41	<b>Delivery Receipts</b> (not disclosed to any party)	ESB	3		
44	<b>Returned Registered mail packages (2) – Demand for Employer Records, investigation Letter, and Fact sheets - October 2, 2019</b> (not disclosed to Employee or s.22)	ESB	11		
56	<b>Registered mail tracesheets – October 2, 2019</b> (not disclosed to any party)	ESB	1		

57	<b>Returned Registered mail packages (2) – Demand for Employer Records, investigation Letter, and Fact sheets - October 18, 2019</b> (not disclosed to Employee or s.22	ESB	12		
69	<b>Registered mail tracesheets – October 18, 2019</b> (not disclosed to any party)	ESB	1		
70	<b>Returned Registered mail packages (2) – Demand for Employer Records, investigation Letter, and Fact sheets - October 2, 2019</b> (not disclosed to Employee or s.22	ESB	10		
81	<b>Registered mail tracesheets – November 29, 2019</b> (not disclosed to any party)	ESB	1		
82	<b>Trace sheets for Registered mail – all dates</b> (not disclosed to any party)	ESB	2		
84	<b>Tribunal appeal sent to ESB – January 7, 2020</b> (not disclosed to Employee or s.22	Employer	13	Note on Page 86 – Illegible text, no clearer copies available.	

## Reinheimer, Leah LBR:EX

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**From:** Vogel-Nakamura, Sophie LBR:EX  
**Sent:** March 2, 2020 10:34 AM  
**To:** EST Registrar EST:EX  
**Subject:** RE: Tribunal File Number: 2020/022  
**Attachments:** Cover Sheet for Tribunal Appeal - The Silver Root Taproom Ltd..pdf; Tribunal Appeal - ESB documents with page numbering.pdf; Letter to Tribunal - The Silver Root Taproom Ltd..pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good morning Victoria,

Please find attached the updated versions of:

1. The Record of documents "Tribunal appeal – ESB documents with page numbering.pdf"
2. A letter to the tribunal "Letter to Tribunal – The Silver Root Taproom Ltd..pdf"
3. The Cover sheet for the Tribunal Appeal "Cover Sheet for Tribunal Appeal – The Silver Root Taproom Ltd..pdf"

Please confirm receipt of these documents.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Sent:** February 7, 2020 3:40 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX <Sophie.Vogel-Nakamura@gov.bc.ca>  
**Cc:** ESB Data Integrity LBR:EX <ESBDataIntegrity@gov.bc.ca>; Boyte, William (Bill) LBR:EX <William.Boyte@gov.bc.ca>  
**Subject:** Tribunal File Number: 2020/022

Sophie Vogel-Nakamura,

Please confirm the receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1

Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated February 7, 2020 – Appeal Acknowledgement  
Appeal by The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
Tribunal correspondence dated February 7, 2020 - Directions to the Director

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

WARNING - CONFIDENTIALITY NOTICE

This e-mail and any attachments may contain confidential and privileged information. Any use, disclosure, copying or dissemination of this information by a person other than an intended recipient is not authorized and may be illegal. If you are not an intended recipient, please notify the sender immediately by return e-mail, delete this e-mail and destroy any copies.

**EMPLOYMENT STANDARDS BRANCH ('ESB')**  
**LIST OF DOCUMENTS/REDACTIONS**

**EMPLOYER:** s.22

PAGE NO.	DESCRIPTION	INTRODUCED BY:	NO. OF PAGES	REDACTIONS OR NOTES	REDACTED BY
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6	<b>Email Correspondence</b> —s.22 (not disclosed to Employer or s.22)	ESB/Employee	8	Note on Page 13 – did not access shared folder	
14	<b>Delivery Receipts –</b> s.22 (not disclosed to any party)	ESB	7		
21	<b>Employee Evidence –</b> s.22 (not disclosed to Employer or accountant)	ESB/Employee	8		
29	<b>Email Correspondence</b> —s.22 (not disclosed to Employer or employee)	ESB	2		
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51	<b>Registered mail tracesheets – October 2, 2019</b> (not disclosed to any party)	ESB	1		
52	<b>Returned Registered mail packages (2) – Demand for Employer Records, investigation Letter, and Fact sheets - October 18, 2019</b> (not disclosed to Employee or s.22	ESB	12		
64	<b>Registered mail tracesheets – October 18, 2019</b> (not disclosed to any party)	ESB	1		
65	<b>Returned Registered mail packages (2) – Demand for Employer Records, investigation Letter, and Fact sheets - October 2, 2019</b> (not disclosed to Employee or s.22	ESB	11		
76	<b>Registered mail tracesheets – November 29, 2019</b> (not disclosed to any party)	ESB	1		
77	<b>Tracking reports for Registered mail – all dates</b> (not disclosed to any party)	ESB	2		

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Withheld pursuant to/removed as

s.3



Office Copy

Date of complaint submission:  
June 19, 2019

Confirmation # 1242036<sup>s.22</sup>

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## Section A: Information About Your Employer

Legal Name: Silver Root Taproom Ltd.		
Operating As (if applicable): Silver Root Taphouse		
Mailing Address: 198 Baker Street	City, Province/State, Country: Nelson, BC, Canada	Postal Code: V1L4H2
Work Location Address (if different from above):	City, Province/State, Country: , ,	Postal Code:
Contact Person (e.g. manager or supervisor): Jamie Hertz	Telephone Number: ext:	Email Address: s.22
Name of Owner: Jamie Hertz	Telephone Number: ext:	Email Address: s.22
Is your employer still in business? Yes	When did your employer go out of business?	
Is your employer bankrupt or in receivership? No		
Type of business: Hospitality / Restaurant	Employers' Bank/Branch: s.22	

## Section B: Information About You

Last Name: s.22	First Name: s.22	Middle Initial(s):	
Mailing Address: s.22	City, Province: s.22	Postal Code: s.22	
Primary phone number: s.22	Alternate phone number:	Email:	
Are you under the age of 19? s.22			
Are you covered by a collective agreement? NO			
If YES, provide union's name:			

## Section C: Authorization

If you authorize anyone to act on your behalf, please provide:

Name: Phone: Email:

**If you will be using an interpreter, please provide:**

Name: Phone: Email:

## Section D: Details About Your Employment

Job Title: First Day Worked: Last Day Worked:  
s.22 s.22 s.22

Rate of Pay: How often were you paid?  
s.22 Every two weeks :

Number of hours worked per day: Number of days worked per week: Total hours worked per week:  
s.22 s.22 s.22

Do you have a record of the hours worked for this employer that are relevant to your claim?:  
Yes

Employment status:  
Other\* Explained in details of your complaint section

If the number of hours worked per day, or days worked per week are varied, please describe:

s.22

## Section E: What Do You Believe You Are Owed?

	From date	To date	Estimated amounts
<input checked="" type="checkbox"/> Regular Wages	s.22	s.22	s.22
<input type="checkbox"/> Overtime			\$0
Were you paid your regular rate of pay for overtime hours worked? No			
<input checked="" type="checkbox"/> Annual Vacation Pay	s.22	s.22	s.22
<input type="checkbox"/> Statutory Holiday Pay	Specify Holiday(s):		\$0
<input type="checkbox"/> Unauthorized Deductions	Specify:		\$0
<input type="checkbox"/> Commissions			\$0
<input type="checkbox"/> Pregnancy/Parental/ or other leave			\$0
<input type="checkbox"/> Compensation for Length of Service (sometimes called Severance/Termination Pay)			\$0
<input checked="" type="checkbox"/> Other	Specify: s.22		s.22
Estimated Total Amount:			s.22

## Section F: Details Of Your Complaint

s.22

## Section G: Declaration And Complaint Submission

Do you consent to your contact information being disclosed to your employer?  
Yes

## EMPLOYMENT STANDARDS BRANCH WORKFLOW SHEET

**Sophie Vogel-Nakamura**  
Delegate

Employer	The Silver Root Taproom Ltd.	ER #	844529
Employer Telephone	s.22	Alternate Ph:	s.22
Complainant	s.22		
Telephone	s.22		

[illegible]

**From:** s.22  
**To:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**Subject:** Re: An update, please  
**Date:** November 18, 2019 10:49:03 AM  
**Attachments:** [Screenshot\\_20190703-154838.png](#)  
s.22

---

Hi Sophie,

s.22

Thank you,

s.22

On Mon., Nov. 18, 2019, 9:56 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Yes please attach pay stubs. Thank you for your patience.

Regards,

Sophie Vogel-Nakamura

Delegate of the Director of

Employment Standards

Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** November 18, 2019 9:52 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: An update, please

Thank you Sophie for the quick reply.

s.22

On Mon., Nov. 18, 2019, 9:50 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Good morning s.22

I will be writing a determinations as James Hertz has not responded to the Demands.

Regards,



Sophie Vogel-Nakamura

Delegate of the Director of

Employment Standards

Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** <sup>s.22</sup>

**Sent:** November 18, 2019 9:37 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** An update, please

Hi Sophie,

s.22

**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** RE: Update on case status  
**Date:** October 28, 2019 3:02:00 PM

---

Hi s.22

Thank you for this information, it is important. Unfortunately, I am unable to release any information regarding other complaints. However, if you know of other people who have wages owing, please ask them to file a complaint with Employment Standards.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22  
**Sent:** October 28, 2019 10:38 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Tue., Oct. 22, 2019, 3:34 p.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Thank you for the information! I will contact her.

Regards

**From:** s.22

**Sent:** October 22, 2019 3:32 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Tue., Oct. 22, 2019, 2:22 p.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

We are still waiting on documents from the employer. When we receive any documents or proceed to the next step you will be contacted.

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22

**Sent:** October 21, 2019 3:54 PM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: Update on case status

Hi Sophie,

s.22

On Thu., Oct. 10, 2019, 9:49 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

The onus is on the employer to provide the records, under section 28 of the act (see below).

Payroll records must

- (a) be in English,
- (b) be kept at the employer's principal place of business in British Columbia, and
- (c) be retained by the employer for 4 years after the date on which the payroll records were created.

Regards

**From:** s.22

**Sent:** October 10, 2019 9:40 AM

**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>

**Subject:** Re: emails - Invitation to collaborate

s.22

On Thu., Oct. 10, 2019, 9:23 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Your file is still under active investigation. I am currently waiting on records from the Employer. I will contact you with further information and to schedule a mediation when we have more information.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of

Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

**From:** s.22  
**Sent:** October 10, 2019 9:13 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** Re: emails - Invitation to collaborate

Hi Sophie,

s.22

On Wed., Oct. 2, 2019, 9:07 a.m. Vogel-Nakamura, Sophie LBR:EX, <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)> wrote:

Hi s.22

Thank you for the quick reply, I will contact you with more information. If you have any questions please do not hesitate to contact me.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** s.22  
**Sent:** October 2, 2019 9:01 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** emails - Invitation to collaborate

s.22

has invited you to **contribute** to the

Page 121 of 390

Withheld pursuant to/removed as

s.22

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: An update, please  
**Date:** November 18, 2019 9:56:52 AM  
**Attachments:** [RE An update please.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22  
Subject: RE: An update, please

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: An update, please  
**Date:** November 18, 2019 9:50:40 AM  
**Attachments:** [RE An update please.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: An update, please



**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 28, 2019 3:19:06 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 22, 2019 3:34:28 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 22, 2019 2:22:10 PM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Update on case status  
**Date:** October 10, 2019 9:49:05 AM  
**Attachments:** [RE Update on case status.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: RE: Update on case status

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: emails - Invitation to collaborate  
**Date:** October 10, 2019 9:23:32 AM  
**Attachments:** [RE emails - Invitation to collaborate.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22

Subject: RE: emails - Invitation to collaborate

Page 129 of 390

Withheld pursuant to/removed as

s.22

Page 130 of 390

Withheld pursuant to/removed as

s.21

Page 131 of 390 to/à Page 136 of 390

Withheld pursuant to/removed as

s.22



**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** RE: Report from The Silver Root Taproom Ltd  
**Date:** November 4, 2019 8:10:00 AM

---

Good Morning s.22

I really appreciate this information.  
Thank you for the email, I will forward it to the investigator.

Regards,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** s.22  
**Sent:** November 3, 2019 9:15 AM  
**To:** Vogel-Nakamura, Sophie LBR:EX <[Sophie.Vogel-Nakamura@gov.bc.ca](mailto:Sophie.Vogel-Nakamura@gov.bc.ca)>  
**Subject:** Report from The Silver Root Taproom Ltd

Good morning Sophie

I apologize for the delay. s.22

s.22

Please email if you require anything else. s.22

s.22

**From:** Vogel-Nakamura, Sophie LBR:EX  
**To:** s.22  
**Subject:** Telephone conversation follow up  
**Date:** October 29, 2019 8:45:00 AM

---

Good morning s.22

s.22

the Silver Root

Taproom Ltd.

If you have any questions please do not hesitate to contact me.

I have removed your cell phone number from the file and replace it with the number you provided.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: RE: Report from The Silver Root Taproom Ltd  
**Date:** November 4, 2019 8:10:59 AM  
**Attachments:** [RE Report from The Silver Root Taproom Ltd.msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22  
Subject: RE: Report from The Silver Root Taproom Ltd

Page 140 of 390 to/à Page 142 of 390

Withheld pursuant to/removed as

s.21; s.22

**From:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**To:** s.22  
**Subject:** Demand for Employer Records - The Silver Root Taproom Ltd.  
**Date:** October 18, 2019 12:38:00 PM  
**Attachments:** [Enforcement measures and penalties.pdf](#)  
[Silver Root Taproom Ltd..pdf](#)  
[Demand for Employer Records Silver Root Taproom Ltd..pdf](#)

---

Good Afternoon,

I have attached the following:

- Demand for Employer Records
- Applicable factsheets

The attached documents have also been sent by registered mail. Please confirm receipt of this email.

Do not hesitate to contact me if you have any questions.

Thank you,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** [Vogel-Nakamura, Sophie LBR:EX](#)  
**To:** s.22  
**Subject:** Demand for Employer Records - Silver Root Taproom Ltd.  
**Date:** October 2, 2019 11:56:00 AM  
**Attachments:** [Enforcement measures and penalties.pdf](#)  
[Silver Root Taproom Ltd.pdf](#)  
[Demand for Employer Records Silver Root Taproom Ltd..pdf](#)

---

Good Afternoon,

I have attached the following:

- Demand for Employer Records
- Applicable factsheets

The attached documents have also been sent by registered mail. Please confirm receipt of this email.

Do not hesitate to contact me if you have any questions.

Thank you,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876

Fax: 250-952-0476

Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)

<http://www.gov.bc.ca/EmploymentStandards>

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: Demand for Employer Records - The Silver Root Taproom Ltd.  
**Date:** October 18, 2019 12:38:27 PM  
**Attachments:** [Demand for Employer Records - The Silver Root Taproom Ltd..msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:  
s.22  
Subject: Demand for Employer Records - The Silver Root Taproom Ltd.

**From:** [Microsoft Outlook](#)  
**To:** s.22  
**Subject:** Relayed: Demand for Employer Records - Silver Root Taproom Ltd.  
**Date:** October 2, 2019 11:57:06 AM  
**Attachments:** [Demand for Employer Records - Silver Root Taproom Ltd..msg](#)

---

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

s.22  
Subject: Demand for Employer Records - Silver Root Taproom Ltd.



<b>Return to Sender</b> <b>Renvoi à l'expéditeur</b>			
This item is being returned because:		Envoi retourné pour la raison suivante :	
Unclaimed	<input checked="" type="checkbox"/>	Non réclamé	
No such Address	<input type="checkbox"/>	Adresse inexistante	
Address Incomplete	<input type="checkbox"/>	Adresse incomplète	
Moved/Unknown	<input type="checkbox"/>	Déménagé / Inconnu	
No such Post Office	<input type="checkbox"/>	Bureau inexistant	
Refused	<input type="checkbox"/>	Refusé	
Amount Due \$		Montant dû Initiales / Initials	
33 000-648 (09-04)			

James <sup>8</sup> Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

MINISTRY OF LABOUR  
NOV 04 2019  
Victoria Field Office  
Employment Standards Branch

	<b>REGISTERED RECOMMANDÉ</b>	
CPC Tracking Number   Numéro de repérage de la SCP RN 268 109 369 CA		
RN 268 109 369 CA		
33-000-648 (14-09)		
Sender warrants that this shipment does not contain dangerous goods. L'expéditeur garantit que cet envoi ne contient pas de matières dangereuses.		
<input checked="" type="checkbox"/> Signature Required Signature requise		



Ministry of Jobs, Tourism and  
Skills Training and Minister  
Responsible for Labour  
Employment Standards Branch  
Victoria Field Office



Mailing Address:  
PO Box 9571 Stn Prov Govt.  
Victoria BC V8W 9K1



MINISTRY OF LABOUR

NOV 04 2019

Victoria Field Office  
Employment Standards Branch

Silver Root Taproom Ltd.  
Registered and Records Office,  
198 Baker Street  
Nelson, BC V1L 4H2

**Return to Sender**  
**Remettre à l'expéditeur**

This item is being  
returned because:

☒ Unclaimed  
No such  
Address  
Incomplete  
Address  
Moved/  
Unknown  
Post Office  
No such  
Address  
Damaged /  
Incomple  
Bureau  
Inexistent  
Refused

Amount Due (taxes)  
\$

Refused  
Montant dû  
Taxes

Refused  
Montant dû  
Taxes





October 2, 2019

ER 844529  
Email & Registered Mail

Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC V1L 4H2

Dear James<sup>s.22</sup> Hertz:

**Re: Employment Standards Complaint(s) Silver Root Taproom Ltd.**

The Employment Standards Branch has received complaints filed by<sup>s.22</sup> and<sup>s.22</sup> These former employees indicate that the business has ceased operating and wages are owed as a result. The Director of Employment Standards is conducting an investigation on behalf of all employees or former employees of Silver Root Taproom Ltd in order to ensure wages have been paid as required by the *Employment Standards Act*.

As a delegate of the Director of Employment Standards Officer for the Ministry, I do not represent the complainants; rather, my role is to be an unbiased party representing the government in interpreting the *Employment Standards Act (the Act)* to resolve complaints. Accordingly, I would like to hear from you regarding this matter.

I have enclosed a copy of the complainant forms filed to date. Please refer to these complaint forms for the details of individuals claimed amounts.

Specifically, the complainants indicate that all regular wages have not been paid, including commission wages, statutory holiday pay and vacation pay. As well, some complainants claim they are owed compensation pay for length of service (termination pay).

---

**Ministry Labour**

Employment Standards Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas Street  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476



Should you not be disputing the amounts claimed, I will need you to provide to me payroll records for each former employee. This includes a detailed breakdown of any outstanding wages owed to each employee by you. This would include a complete payroll run for all employees up to and including the last day the employee last worked for the business.

In addition, also provide all details concerning whether employees were provided written notice of termination, layoff or did they quit employment. I will need you to confirm all employees start and end dates. Please provide a copy of the ROE's issued by the company to employees.

In order to assist with this investigation, I have also enclosed a "**Demand for Employer Records**" pursuant to the Act, which outlines some specific records I require. **Please note the deadline for records is Wednesday, October 16, 2019.**

You should also be aware of the following important information with respect to this matter:

1. **Failure to provide the records described in the attached Demand can result in a \$500.00 penalty; and**
2. **Failure to participate in this investigation may result in a formal Determination based solely on the information provided by the complainants.**
3. **If we are required to issue a formal Determination, and that Determination finds that a person has contravened a provision of the Act or Regulation, the person must pay an administrative penalty for each contravention. Administrative penalties are a minimum of \$500.00 for each contravention of a provision.**

This is your opportunity to respond to these complaints. Should you be disputing any of these wage claims please provide me a written response including records to substantiate your position. Please provide any information you feel may be relevant to our investigation of the wages claimed.

If you do not provide the records as set out above by October 10, 2019, a determination will be issued based on the evidence provided by complainants. If the determination finds that the *Employment Standards Act* or Regulation has been contravened and that wages are owed, you will be ordered to pay all outstanding wages as well as a mandatory penalty for each requirement of the Act found to have been contravened.

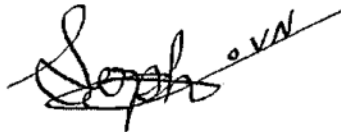
Penalties, the amounts of which are set by regulation, are assessed at \$500 for a first contravention, \$2,500 for a second contravention and \$10,000 thereafter.

Wages constitute a lien and charge in favour of the Director of Employment Standards against all the real and personal property of an employer. This lien takes priority over most other creditors with the exception of the federal government.

Any party to a determination may file an appeal to the Employment Standards Tribunal. On appeal, the Tribunal may refuse to hear evidence that was available but not provided during our investigation.

Your assistance in resolving this matter is appreciated. If you have any questions or wish to discuss this matter further, please call me at 236-478-1876.

Yours truly,

A handwritten signature in black ink, appearing to read 'Sophie' followed by a stylized flourish and the initials 'VN'.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2

cc: James <sup>s.22</sup> Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Attachments



## Demand for Employer Records

October 2, 2019

ER 844529  
Email & Registered Mail

To: Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC, V1L 4H2

Pursuant to section 85 of the Employment Standards Act (the "Act"), Silver Root Taproom Ltd. is required to disclose, produce and deliver all employment records for:

Name: Period:

■ s.22

■

■ All Employees September 3, 2018 to September 3, 2019

The payroll records required are:

- any and all payroll records relating to wages, hours of work and conditions of employment as specified in Section 28 of the Employment Standards Act
- any records relating to the termination of employees including the records of employment and all documents you may rely upon to establish just cause for termination or that employees quit
- any records and all information that support your position that the complainant is a "manager" as defined by the Act.
- hours worked on each day (not a summary)

**You are required** to disclose, produce and deliver the records specified in this Demand to the Employment Standards Branch on or before:

**Wednesday, October 16, 2019 by 4:00 p.m.**

The records may be delivered in person or by mail to Employment Standards Branch, 200-880 Douglas Street., PO Box 9571, Stn Prov Govt., Victoria, BC V8W 9K1 or by email in PDF format to [sophie.vogel-nakamura@gov.bc.ca](mailto:sophie.vogel-nakamura@gov.bc.ca).

Failure to produce these records as required will result in a Determination being issued. Where a Determination contains a finding of a contravention of the Act or Regulation an escalating administrative penalty will be imposed under Section 29 and 46 of the Employment Standards Regulation (minimum \$500.00).

If a determination finds that wages and penalties are owed, **directors and officers of corporations are personally liable** to pay up to two months' wages for each employee and may also be required to pay the penalties resulting from the contraventions.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards  
(236)478-1876

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2  
cc: James s.22 Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

## **EMPLOYMENT STANDARDS ACT**

(excerpts)

### **Entry and inspection powers**

- 85** (1) For the purposes of ensuring compliance with this Act and the regulations, the director may do one or more of the following:
- (a) enter during regular working hours any place, including any means of conveyance or transport, where
    - (i) work is or has been done or started by employees,
    - (ii) an employer carries on business or stores assets relating to that business,
    - (iii) a record required for the purposes of this Act is kept, or
    - (iv) anything to which this Act applies is taking place or has taken place;
  - (b) inspect, and question a person about, any work, material, appliance, machinery, equipment or other thing in the place;
  - (c) inspect any records that may be relevant to an investigation under this Part;
  - (d) on giving a receipt for a record examined under paragraph (c), remove the record to make copies or extracts;
  - (e) require a person to disclose, either orally or in writing, a matter required under this Act and require that the disclosure be under oath or affirmation;
  - (f) require a person to produce, or to deliver to a place specified by the director, any records for inspection under paragraph (c).
- (2) Despite subsection (1), the director may enter a place occupied as a private residence only with the consent of the occupant or under the authority of a warrant issued under section 120.

### **Payroll records**

- 28** (1) For each employee, an employer must keep records of the following information:
- (a) the employee's name, date of birth, occupation, telephone number and residential address;
  - (b) the date employment began;
  - (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
  - (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;
  - (e) the benefits paid to the employee by the employer;
  - (f) the employee's gross and net wages for each pay period;
  - (g) each deduction made from the employee's wages and the reason for it;
  - (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
  - (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
  - (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.
- (2) Payroll records must
- (a) be in English,
  - (b) be kept at the employer's principal place of business in British Columbia, and
  - (c) be retained by the employer for 4 years after the date on which the payroll records were created.

**EMPLOYMENT STANDARDS REGULATIONS**  
(excerpts)

**Production of records**

**46(1)** A person who is required under section 85 (1) (f) of the Act to produce or deliver records to the director must produce or deliver the records as and when required.

**Administrative penalties**

**29** (1) Subject to section 81 of the Act and any right of appeal under Part 13 of the Act, the following monetary penalties are prescribed for the purposes of section 98(1) of the Act:

- (a) a fine of \$500 if the director determines that a person has contravened a requirement under the Act, unless paragraph (b) or (c) applies;
- (b) a fine of \$2 500 if
  - (i) after the date of a determination under paragraph (a), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (a), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (a),unless paragraph (c) applies;
- (c) a fine of \$10 000 if
  - (i) after the date of a determination under paragraph (b), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (b), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (b).

(1.1) For the purposes of subsection (1), an act or omission of an employer constituting a contravention of a requirement under the Act is deemed to be a single contravention regardless of the number of employees affected by the contravention.

**FAILURE TO COMPLY WITH THIS DEMAND WILL RESULT IN A  
PENALTY BEING ISSUED WITHOUT FURTHER NOTICE.**



**EMPLOYMENT STANDARDS ACT**  
(excerpts)

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) [Repealed 2019-27-30]
  - (c) vacation pay that becomes payable after the director or officer ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (b) any vice chair of the board of directors or other governing body of the corporation, if that vice chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (c) the president of the corporation, regardless of the title by which that person is designated,
  - (d) any vice president in charge of a principal business unit of the corporation, including sales, finance or production, regardless of the title by which that person is designated, and
  - (e) any officer of the corporation, whether or not the officer is also a director of the corporation, who performs a policy-making function in respect of the corporation and who has the capacity to influence the direction of the corporation, regardless of the title by which that person is designated;

**"corporation"** means a corporation as defined in the Business Corporations Act, and includes a corporation that, under section 95 of this Act, the director treats as one employer.

#### **Section 98: Monetary penalties**

98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.

(1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.

(1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.

(2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

(3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person

(a) has been convicted of an offence under this Act or the regulations, or

(b) is also liable to pay a fine for an offence under section 125.

(4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

# Enforcement Measures and Penalties

The Employment Standards Branch assists employers and employees to resolve disputes under the *Employment Standards Act* and *Regulation* through a variety of means such as education, mediation, investigation and adjudication.

## Audits

The Branch may review payroll records for the matter in dispute, or may require an audit of the Employer's entire payroll. This audit may be done by the Branch, or the employer may be required to do it and have it checked by the Branch.

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If voluntary resolution of a dispute is not achieved, the Branch will decide the matter and issue a written decision called a determination.

If a determination finds that an employer has contravened the Act or Regulation, the employer is ordered to pay any wages owed to the employee. The employer is also ordered to pay a mandatory penalty for each requirement of the Act or Regulation found to have been contravened.

## Penalties

Penalties for contraventions of the Act and Regulation are as follows:

- First Contravention: \$500.

- Contravention of the same requirement at the same location within three years of the first contravention: \$2,500.
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## Lien for Unpaid Wages

Unpaid wages are a lien, or legal claim, against the property of the employer. The lien takes effect at the time the wages were earned. These liens take priority over all other claims, including a claim of the provincial government, with the exception of a prior-registered mortgage or debenture against land.

## Demands on Third Parties

The Branch can make demands on third parties to recover money owing under a determination, a settlement agreement or an order of the Employment Standards Tribunal.

*continued ...*

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The Branch may seize assets of a person required to pay under a determination, settlement agreement or order to satisfy the amount owing and the costs of the seizure. The Branch may direct the Court Bailiff to seize assets to recover the amount owing. The bailiff will also recover his costs in accordance with the *Court Order Enforcement Act*.

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determination ordering a director or officer to pay wages **before** the date of receivership, bankruptcy or insolvency proceeding;

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The Director of Employment Standards may compile and publish information about contraventions of the Act and Regulation and make this information public.



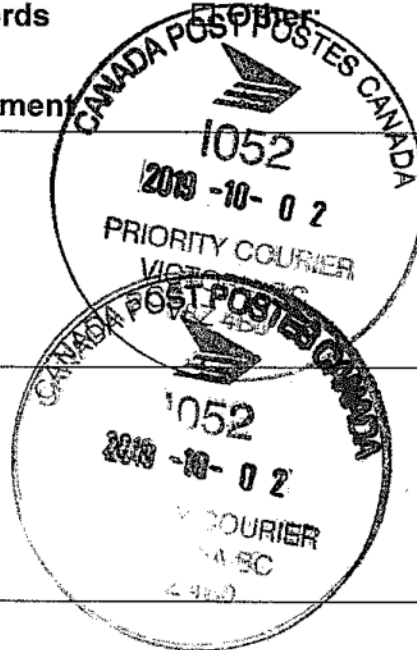
# REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: TAMI WILSON Employer #: 844529 Employer Name: Silver Root Taproom Ltd. Event:	Date: OCT. 2, 2019 Mailed by: SOPHIE VOGEL Telephone no:

- ☐ Hearing Notice
 ☒ Demand for Records  
☒ Fact Sheets
 ☒ Letter  
☐ Determination
 ☐ Settlement Agreement

Silver Root Taproom Ltd.  
 Registered and Records Office,  
 198 Baker Street  
 Nelson, BC V1L 4H2
  RN 268 109 409 CA

James <sup>s.22</sup> Hertz  
 198 Baker Street  
 Nelson, BC V1L 4H2
  RN 268 109 369 CA



MINISTRY OF LABOUR

OCT 03 2019

Victoria Field Office  
 Employment Standards Branch



Ministry of Labour  
Employment Standards Branch  
Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1

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2019 NOV 19

11/05

RTS

James N. Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

MINISTRY OF LABOUR  
NOV 19 2019  
Victoria Field Office  
Employment Standards Branch

**REGISTERED RECOMMANDÉ**  
CPC Tracking Number | Numéro de repérage de la SCP  
RN 268 110 509 CA

**RN 268 110 509 CA**

☒ Signature Required  
Signature requise



Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



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MINISTRY OF LABOUR

NOV 19 2019

Victoria Field Office  
Employment Standards Branch

11/05

RTS

The Silver Root Taproom Ltd.  
Registered and Records Office  
198 Baker Street  
Nelson, BC V1L 4H2





October 2, 2019

ER 844529  
Email & Registered Mail

The Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC V1L 4H2

Dear James<sup>s.22</sup> Hertz:

**Re: Employment Standards Complaint(s) The Silver Root Taproom Ltd.**

The Employment Standards Branch has received complaints filed by Katherine Wedemire and James Johnson. These former employees indicate that the business has ceased operating and wages are owed as a result. The Director of Employment Standards is conducting an investigation on behalf of all employees or former employees of The Silver Root Taproom Ltd. in order to ensure wages have been paid as required by the *Employment Standards Act*.

As a delegate of the Director of Employment Standards Officer for the Ministry, I do not represent the complainants; rather, my role is to be an unbiased party representing the government in interpreting the *Employment Standards Act (the Act)* to resolve complaints. Accordingly, I would like to hear from you regarding this matter.

I have enclosed a copy of the complainant forms filed to date. Please refer to these complaint forms for the details of individuals claimed amounts.

Specifically, the complainants indicate that all regular wages have not been paid, including commission wages, statutory holiday pay and vacation pay. As well, some complainants claim they are owed compensation pay for length of service (termination pay).

---

**Ministry Labour**

Employment Standards Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas Street  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476



Should you not be disputing the amounts claimed, I will need you to provide to me payroll records for each former employee. This includes a detailed breakdown of any outstanding wages owed to each employee by you. This would include a complete payroll run for all employees up to and including the last day the employee last worked for the business.

In addition, also provide all details concerning whether employees were provided written notice of termination, layoff or did they quit employment. I will need you to confirm all employees start and end dates. Please provide a copy of the ROE's issued by the company to employees.

In order to assist with this investigation, I have also enclosed a "**Demand for Employer Records**" pursuant to the Act, which outlines some specific records I require. **Please note the deadline for records is Wednesday, October 16, 2019.**

You should also be aware of the following important information with respect to this matter:

1. **Failure to provide the records described in the attached Demand can result in a \$500.00 penalty; and**
2. **Failure to participate in this investigation may result in a formal Determination based solely on the information provided by the complainants.**
3. **If we are required to issue a formal Determination, and that Determination finds that a person has contravened a provision of the Act or Regulation, the person must pay an administrative penalty for each contravention. Administrative penalties are a minimum of \$500.00 for each contravention of a provision.**

This is your opportunity to respond to these complaints. Should you be disputing any of these wage claims please provide me a written response including records to substantiate your position. Please provide any information you feel may be relevant to our investigation of the wages claimed.

If you do not provide the records as set out above by October 10, 2019, a determination will be issued based on the evidence provided by complainants. If the determination finds that the *Employment Standards Act* or Regulation has been contravened and that wages are owed, you will be ordered to pay all outstanding wages as well as a mandatory penalty for each requirement of the Act found to have been contravened.

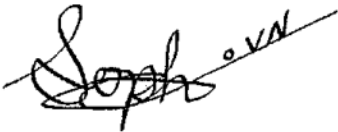
Penalties, the amounts of which are set by regulation, are assessed at \$500 for a first contravention, \$2,500 for a second contravention and \$10,000 thereafter.

Wages constitute a lien and charge in favour of the Director of Employment Standards against all the real and personal property of an employer. This lien takes priority over most other creditors with the exception of the federal government.

Any party to a determination may file an appeal to the Employment Standards Tribunal. On appeal, the Tribunal may refuse to hear evidence that was available but not provided during our investigation.

Your assistance in resolving this matter is appreciated. If you have any questions or wish to discuss this matter further, please call me at 236-478-1876.

Yours truly,

A handwritten signature in black ink, appearing to read 'Sophie', followed by a horizontal line and a small 'VN' monogram.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2

cc: James <sup>s.22</sup> Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Attachments



## Demand for Employer Records

October 2, 2019

ER 844529  
Email & Registered Mail

To: The Silver Root Taproom Ltd.  
198 Baker Street  
Nelson, BC, V1L 4H2

Pursuant to section 85 of the Employment Standards Act (the "Act"), The Silver Root Taproom Ltd. is required to disclose, produce and deliver all employment records for:

Name: Period:  
■ s.22  
■  
■ All Employees September 3, 2018 to September 3, 2019

The payroll records required are:

- any and all payroll records relating to wages, hours of work and conditions of employment as specified in Section 28 of the Employment Standards Act
- any records relating to the termination of employees including the records of employment and all documents you may rely upon to establish just cause for termination or that employees quit
- any records and all information that support your position that the complainant is a "manager" as defined by the Act.
- hours worked on each day (not a summary)

**You are required** to disclose, produce and deliver the records specified in this Demand to the Employment Standards Branch on or before:

**Wednesday, October 16, 2019 by 4:00 p.m.**

The records may be delivered in person or by mail to Employment Standards Branch, 200-880 Douglas Street., PO Box 9571, Stn Prov Govt., Victoria, BC V8W 9K1 or by email in PDF format to [sophie.vogel-nakamura@gov.bc.ca](mailto:sophie.vogel-nakamura@gov.bc.ca).

Failure to produce these records as required will result in a Determination being issued. Where a Determination contains a finding of a contravention of the Act or Regulation an escalating administrative penalty will be imposed under Section 29 and 46 of the Employment Standards Regulation (minimum \$500.00).

If a determination finds that wages and penalties are owed, **directors and officers of corporations are personally liable** to pay up to two months' wages for each employee and may also be required to pay the penalties resulting from the contraventions.

Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards  
(236)478-1876

cc: Registered and Records Office, 198 Baker Street, Nelson, BC V1L 4H2  
cc: James s.22 Hertz, 198 Baker Street, Nelson, BC V1L 4H2

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

## **EMPLOYMENT STANDARDS ACT**

(excerpts)

### **Entry and inspection powers**

- 85 (1) For the purposes of ensuring compliance with this Act and the regulations, the director may do one or more of the following:
- (a) enter during regular working hours any place, including any means of conveyance or transport, where
    - (i) work is or has been done or started by employees,
    - (ii) an employer carries on business or stores assets relating to that business,
    - (iii) a record required for the purposes of this Act is kept, or
    - (iv) anything to which this Act applies is taking place or has taken place;
  - (b) inspect, and question a person about, any work, material, appliance, machinery, equipment or other thing in the place;
  - (c) inspect any records that may be relevant to an investigation under this Part;
  - (d) on giving a receipt for a record examined under paragraph (c), remove the record to make copies or extracts;
  - (e) require a person to disclose, either orally or in writing, a matter required under this Act and require that the disclosure be under oath or affirmation;
  - (f) require a person to produce, or to deliver to a place specified by the director, any records for inspection under paragraph (c).
- (2) Despite subsection (1), the director may enter a place occupied as a private residence only with the consent of the occupant or under the authority of a warrant issued under section 120.

### **Payroll records**

- 28 (1) For each employee, an employer must keep records of the following information:
- (a) the employee's name, date of birth, occupation, telephone number and residential address;
  - (b) the date employment began;
  - (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
  - (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;
  - (e) the benefits paid to the employee by the employer;
  - (f) the employee's gross and net wages for each pay period;
  - (g) each deduction made from the employee's wages and the reason for it;
  - (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
  - (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
  - (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.
- (2) Payroll records must
- (a) be in English,
  - (b) be kept at the employer's principal place of business in British Columbia, and
  - (c) be retained by the employer for 4 years after the date on which the payroll records were created.

## **EMPLOYMENT STANDARDS REGULATIONS**

(excerpts)

### **Production of records**

**46(1)** A person who is required under section 85 (1) (f) of the Act to produce or deliver records to the director must produce or deliver the records as and when required.

### **Administrative penalties**

**29** (1) Subject to section 81 of the Act and any right of appeal under Part 13 of the Act, the following monetary penalties are prescribed for the purposes of section 98(1) of the Act:

- (a) a fine of \$500 if the director determines that a person has contravened a requirement under the Act, unless paragraph (b) or (c) applies;
- (b) a fine of \$2 500 if
  - (i) after the date of a determination under paragraph (a), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (a), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (a),unless paragraph (c) applies;
- (c) a fine of \$10 000 if
  - (i) after the date of a determination under paragraph (b), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (b), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (b).

- (1.1) For the purposes of subsection (1), an act or omission of an employer constituting a contravention of a requirement under the Act is deemed to be a single contravention regardless of the number of employees affected by the contravention.

**FAILURE TO COMPLY WITH THIS DEMAND WILL RESULT IN A  
PENALTY BEING ISSUED WITHOUT FURTHER NOTICE.**

**EMPLOYMENT STANDARDS ACT**  
(excerpts)

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) [Repealed 2019-27-30]
  - (c) vacation pay that becomes payable after the director or officer ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
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*continued ...*



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Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: SOPHIE Employer #: Employer Name: The Silver Root Taproom Ltd. Event:	Date: 2019 10 18 Mailed by: SVN Telephone no:

- ☐ Hearing Notice
 ☒ Demand for Records
 ☐ Other:
 ☐ Fact Sheets
 ☒ Letter (No contact)
 ☐ Determination
 ☐ Settlement Agreement


The Silver Root Taproom Ltd.  
Registered and Records Office  
198 Baker Street  
Nelson, BC V1L 4H2

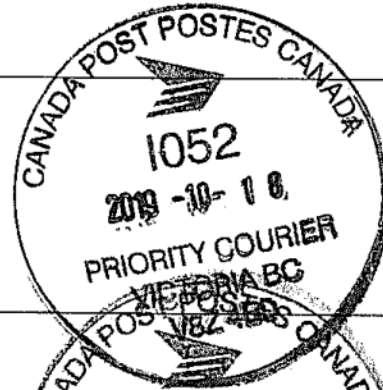
 RN 268 110 543 CA

s.22  
James Hertz  
198 Baker Street  
Nelson, BC V1L 4H2

 RN 268 110 509 CA

s.22

 RN 268 110 526 CA

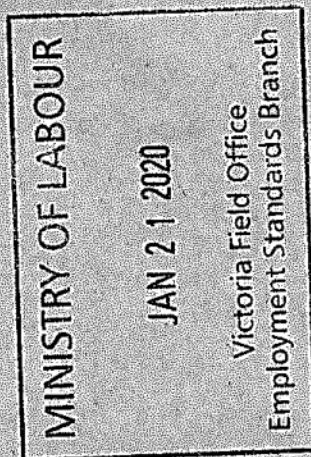
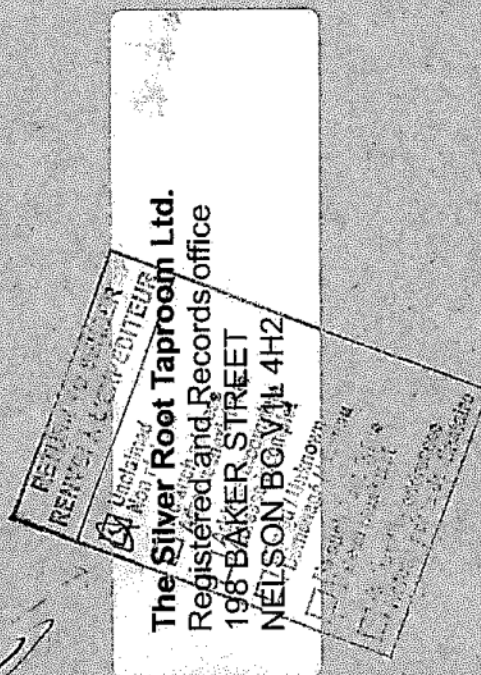


Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1





Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



**The Silver Root Taproom Ltd.**  
Registered and Records office  
198 BAKER STREET  
NELSON BC V1L 4H2

AA  
Folk Address

MINISTRY OF LABOUR

JAN 20 2020

Victoria Field Office  
Employment Standards Branch



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REVENIR A L'EXPEDITEUR

V8W 9K1

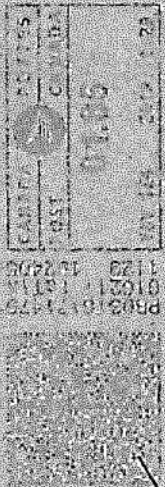


Ministry of Labour

Employment Standards Branch

Victoria Field Office

Mailing Address:  
PO Box 9571 Stn Prov Govt  
Victoria BC V8W 9K1



NOT AT ALL  
ADONIS

James Hertz  
198 BAKER ST  
NELSON BC V1L 4H2  
CANADA

Return to Sender  
Renvoi à l'expéditeur

This item is being returned because:  
Ce produit est renvoyé pour cause de :

<input checked="" type="checkbox"/> No such address	<input type="checkbox"/> No such Post Office	<input type="checkbox"/> Refused	<input type="checkbox"/> Amount Due
<input type="checkbox"/> Incomplete address	<input type="checkbox"/> Unknown	<input type="checkbox"/> Refused	<input type="checkbox"/> Moment du refus
<input type="checkbox"/> Incomplete address	<input type="checkbox"/> Incomplete address	<input type="checkbox"/> Refused	<input type="checkbox"/> Montant dû
<input type="checkbox"/> Damaged / Dégradé	<input type="checkbox"/> Bureau Incomplete	<input type="checkbox"/> Refused	<input type="checkbox"/> Montant dû
<input type="checkbox"/> Address Incomplete	<input type="checkbox"/> Bureau Incomplete	<input type="checkbox"/> Refused	<input type="checkbox"/> Montant dû
<input type="checkbox"/> Address Incomplete	<input type="checkbox"/> Bureau Incomplete	<input type="checkbox"/> Refused	<input type="checkbox"/> Montant dû

30 (06-04) (06-04)

MINISTRY OF LABOUR

JAN 20 2020

Victoria Field Office  
Employment Standards Branch



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RETURN TO SENDER  
RENOVOI A L'EXPEDITEUR  
V8W 9K1



## Determination

Sent by Registered Mail and Regular Mail

ER # 844529

November 29, 2019

The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
198 Baker Street  
Nelson BC V1L 4H2

### **Director of Employment Standards – and – The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse**

I have determined that the *Employment Standards Act* (the "Act") and the *Employment Standards Regulation* (the "Regulation") has been contravened. Accordingly, s.22  
s.22 is entitled to wages and interest. Pursuant to section 79 of the Act, I require  
The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay the following:

Wages (section 17 of the Act)	\$ 2,110.26
Annual vacation pay (section 58 of the Act)	\$ 330.57
Gratuities (section 30.3 of the Act)	\$ 81.33
Accrued interest (section 88 of the Act)	\$ 45.31
<b>A. Wages payable to employee</b>	<b>\$ 2,567.47</b>

Section 98(1) of the Act requires that a mandatory administrative penalty be imposed for each contravention of a requirement of the Act or the Regulation. Penalty amounts are set out in section 29(1) of the Regulation.

Contravention	Work Location	Date of Contravention	Occurrence (within 3 years)	Amount
Section 18	198 Baker Street Nelson, BC	s.22	First	\$ 500.00
Section 17	198 Baker Street Nelson, BC		First	\$ 500.00
Section 58	198 Baker Street Nelson, BC		First	\$ 500.00
Section 30.3	198 Baker Street Nelson, BC		First	\$ 500.00
Section 46	198 Baker Street Nelson, BC		First	\$ 500.00
<b>B. Total administrative penalty amount</b>				<b>\$ 2,500.00</b>
<b>C. Total amount payable</b>				<b>\$ 5,067.47</b>

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to cease contravening the section of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay \$ 5,067.47. Please send a certified cheque or money order, payable to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria, B.C., V8W 9K1, within five working days.

If statutory deductions are withheld from the wages payable to the employee (line A), include a statement indicating the individual amounts remitted to Canada Revenue Agency. The administrative penalty (line B) is not subject to statutory deductions.

**A person named in a Determination may make a written request for reasons for the Determination.** Your request must be delivered to an office of the Employment Standards Branch **by** December 16, 2019.

If payment is not received by the end of the appeal period noted below, additional interest will accrue.

A Determination may be filed in British Columbia Supreme Court and collection proceedings commenced **without further notice**. This may include the issuance of a writ of seizure and sale to be executed by the Court Bailiff. Any fees and costs incurred by the Court Bailiff will be added to the Determination amount owing and will be charged to the Employer.

Under the Act, directors and officers of companies can also be required to pay wages owed to employees. Directors and officers who authorize, permit or acquiesce in a contravention of the Act are also liable for the total administrative penalty amount.

The Director may publish information relating to contraventions of the Act or Regulation including the identity of persons named in a Determination.



Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Complainant

cc: James s.22 Hertz, Director, 198 Baker Street, Nelson, BC V1L 4H2

**Appeal Information**

Should you wish to appeal this Determination, your appeal must be delivered to the **Employment Standards Tribunal** by 4:30 pm on **January 6, 2020**. Your appeal must include a copy of the Director's written reasons for the Determination.

The Employment Standards Tribunal is separate and independent from the Employment Standards Branch. Information on how to appeal a Determination can be found on the Tribunal's website at [www.bcest.bc.ca](http://www.bcest.bc.ca) or by phone at (604) 775-3512.

**81** (1.1) A person named in a determination under subsection (1) may request from the director written reasons for the determination.

(1.2) A request under subsection (1.1) must be in writing and delivered to the director within 7 days of the person being served with the copy of the determination under subsection (1).

(1.3) On receipt of a request under and in accordance with subsections (1.1) and (1.2), the director must provide the person named in the determination with written reasons for that determination.

#### **Appeal of director's determination**

**112** (2) A person who wishes to appeal a determination to the tribunal under subsection (1) must, within the appeal period established under subsection (3),

(a) deliver to the office of the tribunal

(i) a written request specifying the grounds on which the appeal is based under subsection (1),

(i.1) a copy of the director's written reasons for the determination, and

(ii) payment of the appeal fee, if any, prescribed by regulation, and

(b) deliver a copy of the request under paragraph (a) (i) to the director.



## **NOTICE TO DIRECTORS / OFFICERS**

If a director/officer of the company which is the subject of the attached Determination disputes any of the findings contained in the Determination, he or she should ensure that the company files an appeal within the appeal period noted in the Determination.

If the Determination against the company is not appealed, or is appealed and confirmed by the Employment Standards Tribunal, the Employment Standards Branch will commence collection proceedings if voluntary payment is not made. If the Employment Standards Branch has difficulty collecting against the company, proceedings will be commenced against the directors/officers of the company for the amount of their personal liability as set out in the Act. A director or officer may also be held liable for a penalty imposed on the company if he or she authorized, permitted or acquiesced in the company's contravention.

If a Determination is issued against a director/officer of a company, the director/officer may not argue the merits of the Determination against the company by appealing the director/officer Determination.

There are only three grounds on which a Determination made against a director/officer may be appealed:

- 1) That the person appealing was not a director/officer of the company at the time wages were earned or should have been paid;
- 2) That the calculation of the director/officer's personal liability is incorrect; and/or,
- 3) That the director/officer should not be liable for the penalty, where a penalty has been imposed, on the grounds that he or she did not authorize, permit or acquiesce in the company's contravention.

The Employment Standards Branch obtains information about directors and officers from the Registrar of Companies through BC OnLine. If information regarding a director or officer's standing with a company is not current with the Registrar of Companies it is his or her responsibility to provide updated information to the Employment Standards Branch.

**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

**Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).

**Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
- (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

Page 182 of 390 to/à Page 183 of 390

Withheld pursuant to/removed as

s.22

Canada  
2019/11/2

# REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	Suite 200 – 880 Douglas St. Victoria, BC V8W 9K1
Officer: SOPHIE Employer #: ER 844529 Employer Name: The Silver Root Taproom Ltd. Event: COBA Silver Root Taphouse	Date: 2019 11 29 Mailed by: SVN Telephone no:

- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

James<sup>s.22</sup> Hertz  
s.22

RN 268 034 555 CA

James<sup>s.22</sup> Hertz  
198 BAKER ST  
NELSON BC V1L 4H2  
CANADA

RN 268 047 474 CA

s.22

RN 268 034 541 CA

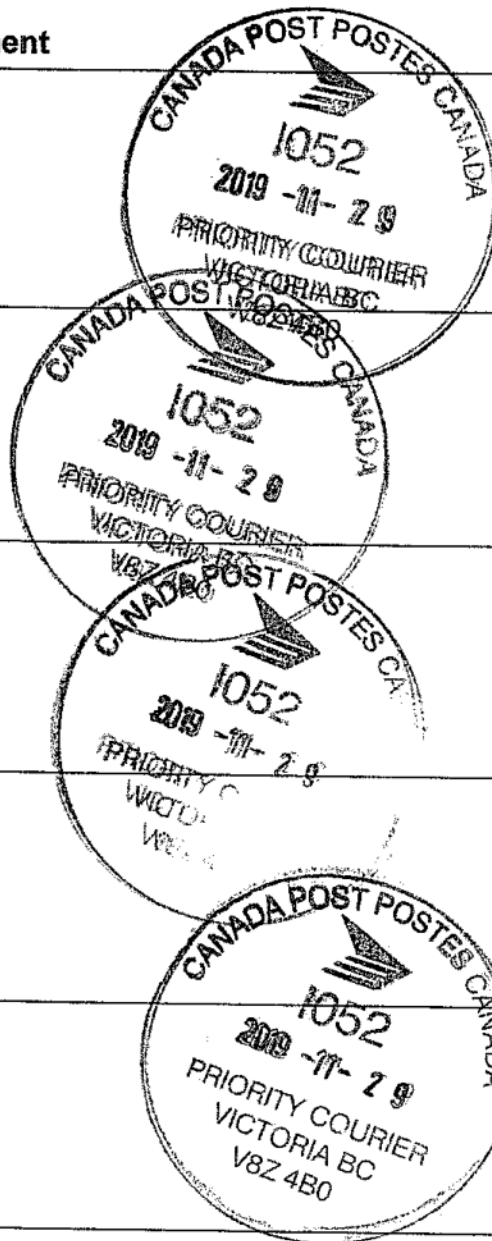
James<sup>s.22</sup> Hertz  
Registered and records office  
198 Baker St.  
Nelson, BC V1L 4H2  
CANADA.

RN 268 047 505 CA

MINISTRY OF LABOUR

DEC 02 2019

Victoria Field Office  
Employment Standards Branch



## Track

Track your items using tracking, delivery notice card, or reference numbers.

### Tracking numbers

Enter up to 24 items, separated by commas or line breaks

Track

### Recently tracked items

#### Details



RN268109269CA

Item successfully returned to sender's mailroom

Last updated: Nov. 4, 2019



RN268109409CA

Item successfully returned to sender's mailroom

Last updated: Nov. 4, 2019



RN268047505CA

Item successfully returned to sender's mailroom

Last updated: Jan. 21



RN268034541CA

Delivered

Last updated: Dec. 6, 2019



RN268047474CA

Delivered

Last updated: Dec. 6, 2019



Page 77 of 78

## Track

Track your items using tracking, delivery notice card, or reference numbers.









### Tracking numbers

Enter up to 24 items, separated by commas or line breaks.

Track

### Recently tracked items

#### Details

	RN268110526CA Delivered Last updated: Oct. 23, 2019	
	RN268110509CA Item successfully returned to sender's mailroom Last updated: Nov. 19, 2019	
	RN268110543CA Item successfully returned to sender's mailroom Last updated: Nov. 19, 2019	
	RN268024555CA Delivered Last updated: Dec. 6, 2019	

Delete all items

Page 78 of 78



February 25, 2020

Employment Standards Tribunal  
650 – 1066 West Hastings Street  
Vancouver, BC V6E 3X1

ER#408166  
Email only

Attention: Victoria Kaethler

Re: Appeal of Determination issued by Director of Employment Standards  
The Silver Root Taproom Ltd. – and –<sup>s.22</sup>  
**Tribunal File Number 2020/022**

---

Please find enclosed a copy of the Record that was before me at the time of issuing the Determination on November 29, 2019. The Complete Record is a total of 78 pages.

There were no redactions to any of the documents. The documents relied upon for the determinations were either provided by the parties or the information contained within the documents was communicated through email and phone conversations.  
All respectfully submitted.

Sophie Vogel-Nakamura  
Delegate of the Director of Employment Standards  
Attachments



## Reinheimer, Leah LBR:EX

---

**From:** Vogel-Nakamura, Sophie LBR:EX  
**Sent:** March 18, 2020 4:29 PM  
**To:** EST Registrar EST:EX  
**Subject:** RE: Tribunal File Number 2020/022

Good afternoon Stephany Herzog,

I have received the four (4) attached documents.

Regards,

**Sophie Vogel-Nakamura**

Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Sent:** March 18, 2020 4:25 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX <Sophie.Vogel-Nakamura@gov.bc.ca>  
**Cc:** ESB Data Integrity LBR:EX <ESBDataIntegrity@gov.bc.ca>  
**Subject:** Tribunal File Number 2020/022

Sophie Vogel-Nakamura,

Please confirm receipt of the attached documents.

Thank you,

Stephany Herzog  
Tribunal Administrator / Manager, Appeals  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated March 18, 2020 – Record Disclosure  
Appendix A – E-mail sent February 10, 2020, to Jamie Hertz  
Appendix B – E-mail received March 5, 2020, from Jamie Hertz [sent March 4, 2020 9.38 PM]  
Appendix C – E-mail received March 5, 2020, from Jamie Hertz

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

WARNING - CONFIDENTIALITY NOTICE

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## Reinheimer, Leah LBR:EX

---

**From:** EST Registrar EST:EX  
**Sent:** March 18, 2020 4:25 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX  
**Cc:** ESB Data Integrity LBR:EX  
**Subject:** Tribunal File Number 2020/022  
**Attachments:** 2020\_022 Tribunal correspondence dated March 18, 2020 - Record Disclosure.pdf; 2020\_022 Appendix A - E-mail sent February 10, 2020, to Jamie Hertz.pdf; 2020\_022 Appendix B - E-mail received March 5, 2020, from Jamie Hertz [sent March 4, 2020 9.38 PM].pdf; 2020\_022 Appendix C - E-mail received March 5, 2020, from Jamie Hertz.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Sophie Vogel-Nakamura,

Please confirm receipt of the attached documents.

Thank you,

Stephany Herzog  
Tribunal Administrator / Manager, Appeals  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

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## Reinheimer, Leah LBR:EX

---

**From:** EST Registrar EST:EX  
**Sent:** April 16, 2020 4:13 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX  
**Cc:** ESB Data Integrity LBR:EX  
**Subject:** Tribunal File Number 2020/022  
**Attachments:** 2020\_022 Tribunal correspondence dated April 16, 2020 - Record Objections.pdf; 2020\_022 Submission received March 19, 2020, from James Hertz.pdf; 2020\_022 Submission received April 8, 2020, from s.22 pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Sophie Vogel-Nakamura,

Please confirm receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated April 16, 2020 - Record Objections  
Submission received March 19, 2020, from James Hertz  
Submission received April 8, 2020, from s.22

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

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## Reinheimer, Leah LBR:EX

---

**From:** Vogel-Nakamura, Sophie LBR:EX  
**Sent:** April 30, 2020 8:47 AM  
**To:** EST Registrar EST:EX  
**Subject:** RE: Tribunal File Number 2020/022  
**Attachments:** Letter to Tribunal - The Silver Root Taproom Ltd.2.pdf

Good morning,

Please find attached a letter.

Thank you,

**Sophie Vogel-Nakamura**  
Delegate of the Director of  
Employment Standards  
Ministry of Labour

Phone: 236-478-1876  
Fax: 250-952-0476  
Email: [Sophie.vogel-nakamura@gov.bc.ca](mailto:Sophie.vogel-nakamura@gov.bc.ca)  
<http://www.gov.bc.ca/EmploymentStandards>

---

**From:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Sent:** April 16, 2020 4:13 PM  
**To:** Vogel-Nakamura, Sophie LBR:EX <Sophie.Vogel-Nakamura@gov.bc.ca>  
**Cc:** ESB Data Integrity LBR:EX <ESBDataIntegrity@gov.bc.ca>  
**Subject:** Tribunal File Number 2020/022

Sophie Vogel-Nakamura,

Please confirm receipt of the attached documents.

Thank you,

Victoria Kaethler  
Registry Administrator  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated April 16, 2020 - Record Objections  
Submission received March 19, 2020, from James Hertz  
Submission received April 8, 2020, from s.22

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

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April 30, 2020

Employment Standards Tribunal  
650 – 1066 West Hastings Street  
Vancouver, BC V6E 3X1

ER#408166  
Email only

Attention: Victoria Kaethler

Re: Appeal of Determination issued by Director of Employment Standards  
The Silver Root Taproom Ltd. – and <sup>s.22</sup>  
**Tribunal File Number 2020/022**

---

The Record provided on March 4, 2020 contains all the documents relied upon for the determination. As noted on “Cover Sheet for Tribunal Appeal – The Silver Root Taproom Ltd. pdf” the shared folder was not relied upon for the determination. If the tribunal would like to receive a copy of the shared folder, it can be provided. The documents were either provided by the parties or the information contained within the documents was communicated through email and phone conversations.

All respectfully submitted.

Sophie Vogel-Nakamura  
Delegate of the Director of Employment Standards  
Attachments

**Reinheimer, Leah LBR:EX**

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 4, 2020 2:45 PM  
**To:** s.22  
**Cc:**  
**Subject:** Happy Monday + Question about your appeal

Hi Sophie!

s.22

Question for you about the appeal you were working on. The Tribunal has asked us to submit all the documents you received. Can you tell me 1) how to access the shared folder, and 2) whether there are any other documents you didn't submit to the Tribunal? That is to say, are the only the documents you did not submit the documents in the shared folder?

Sorry to have to bother you with this. Thanks for any help you can give me!

**Shannon Corregan**  
Industrial Relations Officer  
Employment Standards Branch, Vancouver Island Region  
Ministry of Labour  
T: **778-974-3862**  
F: 250-952-0476



**Reinheimer, Leah LBR:EX**

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 4, 2020 3:37 PM  
**To:** Siegmann, Tyler LBR:EX  
**Subject:** Silver Root Taphouse - "Missing" documents found

Hi Tyler,

I've retrieved the additional documents that the Complainant submitted. I've emailed Sophie asking her to confirm whether there are any other documents that she did not include in the Record to the Tribunal.

**Shannon Corregan**  
Industrial Relations Officer  
Employment Standards Branch, Vancouver Island Region  
Ministry of Labour  
T: **778-974-3862**  
F: 250-952-0476

## Reinheimer, Leah LBR:EX

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 4, 2020 4:33 PM  
**To:** 'Sophie Vogel'  
**Subject:** RE: Happy Monday + Question about your appeal

Awesome, thanks – at first I couldn't access it but I was looking at the wrong email. And thanks for that confirmation! That should be everything (fingers crossed).

**From:** Sophie Vogel<sup>s.22</sup>  
**Sent:** May 4, 2020 4:01 PM  
**To:** Corregan, Shannon LBR:EX <Shannon.Corregan@gov.bc.ca>  
**Subject:** Re: Happy Monday + Question about your appeal

Hey Shannon,

1. I clicked on the folder and it accessed it. (I think I labeled it on the p:drive with the emails)
2. Yes that is correct no other document other than the shared folder.

Let me know if there is anything else

Kind regards,

Sophie Vogel

On Mon, May 4, 2020 at 2:45 PM Corregan, Shannon LBR:EX <[Shannon.Corregan@gov.bc.ca](mailto:Shannon.Corregan@gov.bc.ca)> wrote:

Hi Sophie!

s.22

Question for you about the appeal you were working on. The Tribunal has asked us to submit all the documents you received. Can you tell me 1) how to access the shared folder, and 2) whether there are any other documents you didn't submit to the Tribunal? That is to say, are the only the documents you did not submit the documents in the shared folder?

Sorry to have to bother you with this. Thanks for any help you can give me!

**Shannon Corregan**

Industrial Relations Officer

Employment Standards Branch, Vancouver Island Region

Ministry of Labour

**T: 778-974-3862**

F: 250-952-0476

## Reinheimer, Leah LBR:EX

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 4, 2020 4:35 PM  
**To:** Siegmann, Tyler LBR:EX  
**Subject:** Silver Root Taphouse cont'd

Hi Tyler,

Sophie confirms that the only documents she did not submit are the documents in the shared folder (which I have now retrieved from the shared drive and which I can format and submit to the Tribunal, if required).

Let me know!

**From:** Sophie Vogel<sup>s.22</sup>  
**Sent:** May 4, 2020 4:01 PM  
**To:** Corregan, Shannon LBR:EX <Shannon.Corregan@gov.bc.ca>  
**Subject:** Re: Happy Monday + Question about your appeal

Hey Shannon,

1. I clicked on the folder and it accessed it. (I think I labeled it on the p:drive with the emails)
2. Yes that is correct no other document other than the shared folder.

Let me know if there is anything else

Kind regards,

Sophie Vogel

On Mon, May 4, 2020 at 2:45 PM Corregan, Shannon LBR:EX <[Shannon.Corregan@gov.bc.ca](mailto:Shannon.Corregan@gov.bc.ca)> wrote:

Hi Sophie!

s.22

Question for you about the appeal you were working on. The Tribunal has asked us to submit all the documents you received. Can you tell me 1) how to access the shared folder, and 2) whether there are any other documents you didn't submit to the Tribunal? That is to say, are the only the documents you did not submit the documents in the shared folder?

Sorry to have to bother you with this. Thanks for any help you can give me!

**Shannon Corregan**

Industrial Relations Officer

Employment Standards Branch, Vancouver Island Region

Ministry of Labour

T: **778-974-3862**

F: 250-952-0476

**Reinheimer, Leah LBR:EX**

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 5, 2020 5:21 PM  
**To:** EST Registrar EST:EX  
**Cc:** Siegmann, Tyler LBR:EX  
**Subject:** EST File Number 2020/022 - Letter regarding Record  
**Attachments:** Letter to Tribunal - May 5, 2020.pdf

Good afternoon,

Please find attached a letter to the Tribunal regarding the above-noted file. Please let me know if you require any clarification or anything further from me.

Please kindly direct all further correspondence regarding this appeal to me at this email address,<sup>s.22</sup>  
s.22

Regards,

**Shannon Corregan**  
Industrial Relations Officer  
Employment Standards Branch, Vancouver Island Region  
Ministry of Labour  
T: **778-974-3862**  
F: 250-952-0476



May 5, 2020

Employment Standards Tribunal  
By email only

EST File No. 2020/022  
ESB ER No. 844529

Attn: Marcella Gordon, Registrar

**Re: Tribunal File Number 2020/022, Director's Record**

The Tribunal has noted that there is an omission in the Record that my colleague, Ms. Vogel-Nakamura, submitted to the Tribunal in respect of this file.

On October 2, 2019, <sup>s.22</sup> gave Ms. Vogel-Nakamura access to 13 documents that <sup>s.22</sup> had uploaded into a digital shared folder. Ms. Vogel-Nakamura did not include these documents in the Record.

On April 8, 2020, <sup>s.22</sup> observed that these documents were missing from the Record. She submitted 15 pages of documents to the Tribunal.

I hereby confirm that the 13 documents that <sup>s.22</sup> submitted to Ms. Vogel-Nakamura on October 2, 2019 are identical to the 15 pages of documents that she submitted to the Tribunal on April 8, 2020, with the following two exceptions:

- One of the documents that <sup>s.22</sup> uploaded into the shared folder appears to have been improperly uploaded or otherwise corrupted. It cannot be viewed or downloaded. It is likely that this document corresponds with page 16 of the Tribunal's document titled "2020\_022 Submission received April 8, 2020, from <sup>s.22</sup> <sup>s.22</sup> as this is the only page that does not correspond with the documents in the folder.
- There is an additional document in the folder that does not appear in <sup>s.22</sup> April 8, 2020 submission. This document appears at page 21 of the Record.

Thank you for the opportunity to correct this omission. Please do not hesitate to contact me if you have any questions or require anything further.

Regards,

Shannon Corregan  
Delegate of the Director of Employment Standards  
Shannon.Corregan@bc.gov.ca  
T: 778-974-3862

## Reinheimer, Leah LBR:EX

---

**From:** Corregan, Shannon LBR:EX  
**Sent:** May 25, 2020 4:29 PM  
**To:** EST Registrar EST:EX  
**Subject:** RE: Tribunal File Number 2020/022

Good afternoon,

I confirm receipt of the attached documents.

Regards,

Shannon Corregan

---

**From:** EST Registrar EST:EX <REGISTRAR@BCEST.BC.CA>  
**Sent:** May 25, 2020 4:25 PM  
**To:** Corregan, Shannon LBR:EX <Shannon.Corregan@gov.bc.ca>  
**Cc:** ESB Data Integrity LBR:EX <ESBDataIntegrity@gov.bc.ca>  
**Subject:** Tribunal File Number 2020/022

Shannon Corregan,

Please confirm receipt of the attached documents.

Thank you,

Stephany Herzog  
Operations Manager  
Employment Standards Tribunal  
650 - 1066 West Hastings Street  
Vancouver, BC V6E 3X1  
Main: 604-775-3512 Fax: 604-775-3372

Attachments: Tribunal correspondence dated May 25, 2020 – Tribunal Decision Number 2020 BCEST 50  
Tribunal Decision Number 2020 BCEST 50

[**Note:** If you live outside the Lower Mainland and would incur a cost in contacting the Tribunal's office via telephone, please contact Service BC Contact Centre at 250-387-6121 (Victoria) or toll free in B.C. at 1-800-663-7867 to request a transfer to the Tribunal's telephone number (604-775-3512)]

### WARNING - CONFIDENTIALITY NOTICE

This e-mail and any attachments may contain confidential and privileged information. Any use, disclosure, copying or dissemination of this information by a person other than an intended recipient is not authorized and may be illegal. If you are not an intended recipient, please notify the sender immediately by return e-mail, delete this e-mail and destroy any copies.



## ESB Collections Information Transfer Sheet

☒ **Complaint Unit**   ☐ **Compliance Unit**  
☐ **Paper File Only**   ☒ **Electronic File Only**

**ESA to ensure the following items have been completed**

Date file sent to Collections: 2020-06-09 ER # 844529

Other known address(es) or business(es): N/A

**Place a checkmark beside each item after it has been confirmed in CTS:**

- ☒ ER legal name & contact information as shown in CDET
- ☒ Complainant(s) names and contact information as shown in CDET
- ☒ All documents have been entered
- ☒ Payments have been entered and not returned NSF N/A
- ☒ All allegations have been entered
- ☒ Appeal information entered
- ☒ File transferred to collections delegate in CTS

### Officer to Complete

Nature of the business: Restaurant / bar

Is it operating: ☒ Yes   ☐ No   Date closed: [Click here to enter a date.](#)   ☐ Unsure

Did the ER participate: ☐ Yes   ☒ No

Contact for ER: James s.22   Hertz s.22

If multiple EEs, name(s) of complainant(s) likely to have the most knowledge about the affairs/assets of the business: name(s)

Banking information: [Click here to enter information.](#)

If sending before appeal expiry date provide reason: [Click here to enter reasons.](#)

### Settlement Agreement(s):

Complainant name: [Click here to enter a name.](#)

☐ Full

☐ Partial   Type of complaint: [Choose an item.](#)

Status of complaint: CDET issued for unresolved issues?

☐ Payment Plan   Default date: [Enter a date.](#)   Amount(s) paid: \$

☐ Director/officer signed for personal liability (if yes, provide director/officer info below)

More than 1 SA signed by different Directors? ☐ Yes   ☐ No

All Directors entered into CTS? ☐ Yes   ☐ No

Second SA entered into notes screen in CTS? ☐ Yes   ☐ No

## ESB Collections Information Transfer Sheet

### CDET:

Date issued: 2019-11-29      Appeal expiry date: 2020-01-06

If appealed, outcome: ☐ pending ☒ confirmed ☐ varied ☐ referred back

If varied/referred back, revised amounts: wages & interest + penalties = total

### DDET:

Director/Officer Name: [Click here to enter a name.](#)

Date issued: [Enter a date.](#)      Appeal expiry date: [Appeal deadline date](#)

If appealed, outcome: ☐ pending ☐ confirmed ☐ varied ☐ referred back

If varied/referred back, revised amounts: wages + penalties = total

### Director/Officer Information:

Did director/officer participate: ☐ Yes ☒ No

Home address confirmed: ☐ Yes ☒ No

Other possible addresses: [Click here to enter addresses.](#)

Banking information / description of possible assets: [Click here to enter text.](#)

**Documents – Please check all that apply and place in a separate envelope at the front of the file** (Originals of CDET/ DDET/ SA, certified true copy of EST Decision and copies of other documents)

☒ CDET: **one single sided**, original signature, reasons not attached

☐ # of DDETs DDET(s): **one single sided**, original signature, reasons not attached

☐ # of SAs Settlement Agreement(s): **single sided**, original signature, counterparts grouped together

☐ Notes / emails of Officer's contact with ER re missed payment for SA: [Details here](#)

☐ Authorization to release info to advocate/representative

☐ EST Decision(s): certified true copy(s)

☐ Section 87 letter

☐ Third party demand(s)

☒ BC Online Company Summary [See electronic file](#)

☐ Land Titles Search(es)

☐ PPSA Search(es)

☐ Bankruptcy Search(es)

☐ Other Search(es): [List other relevant searches included](#)

## ESB Collections Information Transfer Sheet

- ☐ Cheques or banking documents for the ER
- ☐ Payments received (copies of cheques/drafts/etc.)
- ☐ Other: List other relevant documents included

### Other comments:

### **YOU CAN ONLY SEND AN ELECTRONIC FILE OR A PAPER FILE. NOT BOTH!**

Note: I (Shannon Corregan) am sending this file to Collections on behalf of Sophie Vogel-Nakamura s.22  
s.22 I've filled out this form to the best of my ability.

# EMPLOYMENT STANDARDS BRANCH WORKFLOW SHEET

**Brandi Blaine**

Delegate

Employer	The Silver Root Taproom Ltd. coba Silver Root Taphouse	ER #	844529
Employer Telephone		Alternate Ph:	
Complainant <sup>s.22</sup>			
Telephone			

DATE	PERSON	METHOD	METHOD CODE	PERSON CODE	ACTIVITY
					TIME
			<b>P</b> In Person <b>LT</b> Letter to <b>LF</b> Letter from <b>FT</b> Fax to <b>FF</b> Fax from <b>TT</b> Telephone Call to <b>TF</b> Telephone Call from <b>TMT</b> Telephone Message to <b>TMF</b> Telephone Message from <b>EMT</b> Email Message to <b>EMF</b> Email Message from	<b>ER</b> Employer <b>EE</b> Employee <b>A</b> Accountant/Bookkeeper <b>L</b> Lawyer <b>O</b> Other <b>DEL</b> ESB Delegate	
Jul 20	DEL	Mail	Mailed requisition to NW Court CDET only		
Jun 10/20	EE	EMF	Note: msg from EE with following <b>James Hertz</b> (Silver Root Taphouse) had a business <u>bank account</u> <sup>s.22</sup> s.22		
Jul 30/20	EE	EMF			
Jul 30/20	EE	EMT	Email to EE confirming receipt of her information		
20-08-25	DEL		Equifax search saved to efile Google search appears still operating Preparation of Demand to <sup>s.22</sup> – send registered mail tomorrow		
20-08-25		RLT	3PD letter sent to <sup>s.22</sup> s.22 (scanned letter and trace sheet to efile) file needs a DDET		
20-08-26	DEL		Spoke with Jen S advised file needs a DDET; sent email as well		
20-08-27	ER	EMT	Email to ER to contact me at 778-699-2478		
20-08-28	ER	TF	Spoke with ER <sup>s.22</sup> s.22 Advised of total amount outstanding on CDET. <sup>s.22</sup> ER that was for the wages but the determination included penalties for contraventions and the Tribunal upheld the decision and that is what we will be collecting on. s.22 s.22		

[illegible]

SUPREME COURT  
OF BRITISH COLUMBIA

JUL 24 2019

NEW WESTMINSTER  
REGISTRY



229449

## Determination

Sent by Registered Mail and Regular Mail

ER # 844529

November 29, 2019

The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
198 Baker Street  
Nelson BC V1L 4H2

### Director of Employment Standards – and – The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse

I have determined that the *Employment Standards Act* (the "Act") and the Employment Standards Regulation (the "Regulation") has been contravened. Accordingly,<sup>s.22</sup>  
s.22 is entitled to wages and interest. Pursuant to section 79 of the Act, I require The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay the following:

Wages (section 17 of the Act)	\$ 2,110.26
Annual vacation pay (section 58 of the Act)	\$ 330.57
Gratuities (section 30.3 of the Act)	\$ 81.33
Accrued interest (section 88 of the Act)	\$ 45.31
<b>A. Wages payable to employee</b>	<b>\$ 2,567.47</b>

Section 98(1) of the Act requires that a mandatory administrative penalty be imposed for each contravention of a requirement of the Act or the Regulation. Penalty amounts are set out in section 29(1) of the Regulation.

Contravention	Work Location	Date of Contravention	Occurrence (within 3 years)	Amount
Section 18	198 Baker Street Nelson, BC	s.22	First	\$ 500.00
Section 17	198 Baker Street Nelson, BC		First	\$ 500.00
Section 58	198 Baker Street Nelson, BC		First	\$ 500.00
Section 30.3	198 Baker Street Nelson, BC		First	\$ 500.00
Section 46	198 Baker Street Nelson, BC		First	\$ 500.00
<b>B. Total administrative penalty amount</b>				<b>\$ 2,500.00</b>
<b>C. Total amount payable</b>				<b>\$ 5,067.47</b>

Ministry of Labour

Employment Standards  
Branch

Mailing Address:

PO Box 9571 Stn Prov Govt.  
Suite 200 - 880 Douglas St.  
Victoria, B.C. V8W 9K1

Telephone: 1 833 236-3700  
Facsimile: (250) 952-0476

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to cease contravening the section of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay \$ 5,067.47. Please send a certified cheque or money order, payable to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria, B.C., V8W 9K1, within five working days.

If statutory deductions are withheld from the wages payable to the employee (line A), include a statement indicating the individual amounts remitted to Canada Revenue Agency. The administrative penalty (line B) is not subject to statutory deductions.

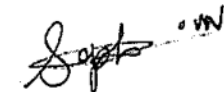
**A person named in a Determination may make a written request for reasons for the Determination.** Your request must be delivered to an office of the Employment Standards Branch by December 16, 2019.

If payment is not received by the end of the appeal period noted below, additional interest will accrue.

A Determination may be filed in British Columbia Supreme Court and collection proceedings commenced **without further notice**. This may include the issuance of a writ of seizure and sale to be executed by the Court Bailiff. Any fees and costs incurred by the Court Bailiff will be added to the Determination amount owing and will be charged to the Employer.

Under the Act, directors and officers of companies can also be required to pay wages owed to employees. Directors and officers who authorize, permit or acquiesce in a contravention of the Act are also liable for the total administrative penalty amount.

The Director may publish information relating to contraventions of the Act or Regulation including the identity of persons named in a Determination.



Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Complainant

cc: James s.22 Hertz, Director, 198 Baker Street, Nelson, BC V1L 4H2

#### Appeal Information

Should you wish to appeal this Determination, your appeal must be delivered to the **Employment Standards Tribunal** by 4:30 pm on **January 6, 2020**. Your appeal must include a copy of the Director's written reasons for the Determination.

The Employment Standards Tribunal is separate and independent from the Employment Standards Branch. Information on how to appeal a Determination can be found on the Tribunal's website at [www.bcest.bc.ca](http://www.bcest.bc.ca) or by phone at (604) 775-3512.

**81** (1.1) A person named in a determination under subsection (1) may request from the director written reasons for the determination.

(1.2) A request under subsection (1.1) must be in writing and delivered to the director within 7 days of the person being served with the copy of the determination under subsection (1).

(1.3) On receipt of a request under and in accordance with subsections (1.1) and (1.2), the director must provide the person named in the determination with written reasons for that determination.

### **Appeal of director's determination**

**112** (2) A person who wishes to appeal a determination to the tribunal under subsection (1) must, within the appeal period established under subsection (3),

(a) deliver to the office of the tribunal

(i) a written request specifying the grounds on which the appeal is based under subsection (1),

(i.1) a copy of the director's written reasons for the determination, and

(ii) payment of the appeal fee, if any, prescribed by regulation, and

(b) deliver a copy of the request under paragraph (a) (i) to the director.



## **NOTICE TO DIRECTORS / OFFICERS**

If a director/officer of the company which is the subject of the attached Determination disputes any of the findings contained in the Determination, he or she should ensure that the company files an appeal within the appeal period noted in the Determination.

If the Determination against the company is not appealed, or is appealed and confirmed by the Employment Standards Tribunal, the Employment Standards Branch will commence collection proceedings if voluntary payment is not made. If the Employment Standards Branch has difficulty collecting against the company, proceedings will be commenced against the directors/officers of the company for the amount of their personal liability as set out in the Act. A director or officer may also be held liable for a penalty imposed on the company if he or she authorized, permitted or acquiesced in the company's contravention.

If a Determination is issued against a director/officer of a company, the director/officer may not argue the merits of the Determination against the company by appealing the director/officer Determination.

There are only three grounds on which a Determination made against a director/officer may be appealed:

- 1) That the person appealing was not a director/officer of the company at the time wages were earned or should have been paid;
- 2) That the calculation of the director/officer's personal liability is incorrect; and/or,
- 3) That the director/officer should not be liable for the penalty, where a penalty has been imposed, on the grounds that he or she did not authorize, permit or acquiesce in the company's contravention.

The Employment Standards Branch obtains information about directors and officers from the Registrar of Companies through BC OnLine. If information regarding a director or officer's standing with a company is not current with the Registrar of Companies it is his or her responsibility to provide updated information to the Employment Standards Branch.

**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

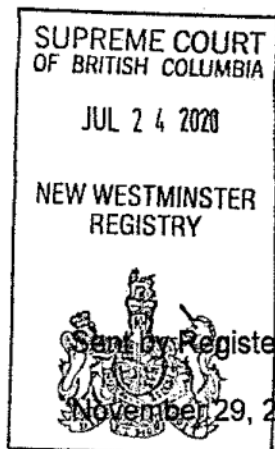
**Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).

**Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.

- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
- (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.



229449

## Determination

ER # 844529

The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse  
198 Baker Street  
Nelson BC V1L 4H2

### **Director of Employment Standards – and – The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse**

I have determined that the *Employment Standards Act* (the "Act") and the Employment Standards Regulation (the "Regulation") has been contravened. Accordingly,<sup>s.22</sup> is entitled to wages and interest. Pursuant to section 79 of the Act, I require The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to pay the following:

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Ministry of Labour

Employment Standards  
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I order The Silver Root Taproom Ltd. carrying on business as Silver Root Taphouse to cease contravening the section of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

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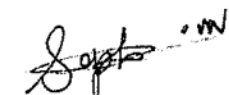
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Sophie Vogel-Nakamura  
Delegate of the Director of  
Employment Standards

cc: Complainant

cc: James s.22 Hertz, Director, 198 Baker Street, Nelson, BC V1L 4H2

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**EMPLOYMENT STANDARDS ACT**  
**(excerpts)**

**Corporate officer's liability for unpaid wages**

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- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).

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- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.



- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
  - (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.



June 10, 2020

ER #844529

s.22

Dear s.22

**Re: The Silver Root Taproom Ltd.**

The Employment Standards Branch (the Branch) has not received payment from The Silver Root Taproom Ltd. s.22

The Branch has commenced collection activities to recover the wages owed, s.22  
s.22 as a judgment in the Supreme Court of British Columbia. Judgments are enforceable for 10 years from the date of filing. Collection can be a lengthy process and success is never certain.

If part or all wages owing are collected, the Branch will mail a cheque to you as money is received. **Please keep the Branch informed of any change in your mailing address, e-mail or telephone number.**

Additionally, if you have information or, in future, become aware of information that may assist the Branch to recover your unpaid wages you can share it with us by sending an e-mail. Leads are added to the collections file and followed up on. Examples of helpful information are: which bank branch this employer and/or its corporate directors use; the names of people who owe them money; the municipal address of property owned by them; the location and description of assets such as inventory, equipment, cars, trucks etc.; current business endeavours; or, new employment of your former employer.

Please send all updates by e-mail to [ESB.Collections@gov.bc.ca](mailto:ESB.Collections@gov.bc.ca). Help us track information you share by including your full legal name and the ER# displayed in the upper right-hand corner of this letter.

For privacy reasons the Branch cannot discuss specific information obtained about a debtor and its/his/her assets. The Branch does not contact parties owed wages to provide progress updates.

Sincerely,

Collections Team,  
Delegates of the Director of Employment Standards  
Ministry of Labour, Province of British Columbia

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Withheld pursuant to/removed as

s.3

### Delegate

ER # 413540

Activity		Date	Activity		Date
Demand for Employer Records Issued	<input type="checkbox"/>		Written Report Reviewed	<input type="checkbox"/>	
Records Received	<input type="checkbox"/>		Written Report Sent	<input type="checkbox"/>	
Fact Finding Meeting Scheduled	<input type="checkbox"/>		Feedback to Written Report Received	<input type="checkbox"/>	
Fact Finding Meeting Conducted	<input type="checkbox"/>			<input type="checkbox"/>	
	<input type="checkbox"/>			<input type="checkbox"/>	

[illegible]

Employer Name:	Nancy O's Restaurant Group Inc.
Employer Number:	413540
Name of Interviewer:	Shani Sidhu
Name of Interviewee:	s.22
Interview Date:	November 19, 2019

**What was your last day of work?**

s.22 last day worked and earned wages. EE states she was employed until s.22 as she was still on the scheduling list.  
hired as s.22

s.22

EE states she also worked s.22 before lodged complaint, where she worked s.22  
s.22 Filed a complaint for wages with ER on same date, has not  
heard from ESB.

**Details of your claim- were any deductions taken/ wages owed to you? Did the new rules enforced by employer ever effect your pay? Deductions taken or predicted?**

New policy came into effect s.22 Owners didn't inform staff, ee s.22 who sent this  
wage rate change along a week before it went into effect. EE s.22 but no deductions were taken.

s.22 filing a complaint for a cause of action for EEs whos wages are being reduced

s.22 reduced servers tips but used it to subsidize the wages of the cooks, admitted  
they were reducing cooks wages.

**What were your regular hours, were you always casual?**

s.22

Del provided education re: def of temp lay off, timelines (sec 74), advised complaint appears to be out of time as last day of  
work appears to be date of termination s.22

s.22 fear apprehension from ER. DEL educated on right  
to file anonymous complains (s.75) and EE not to be mistreated due to complaint (s. 83)



Office Copy

Date of complaint submission:  
July 11, 2019

Confirmation # 1798512ILI

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**Section A: Information About Your Employer**

Legal Name:

Nancy O's

Operating As (if applicable):

Mailing Address: 1261 3rd Ave	City, Province/State, Country: PRINCE GEORGE, BC, Canada	Postal Code: V2L3E6
Work Location Address (if different from above):	City, Province/State, Country: , ,	Postal Code:
Contact Person (e.g. manager or supervisor): Eoin Foley and Garret Fedorkiw	Telephone Number: 250-562-8066 ext:	Email Address:
Name of Owner: Eoin Foley and Garret Fedorkiw	Telephone Number: ext:	Email Address:
Is your employer still in business? Yes	When did your employer go out of business?	
Is your employer bankrupt or in receivership? No		
Type of business: Restaurant	Employers' Bank/Branch:	

**Section B: Information About You**

Last Name: s.22	First Name: s.22	Middle Initial (s):	
Mailing Address: s.22	City, Province: PRINCE GEORGE, BC		Postal Code: s.22
Primary phone number: s.22	Alternate phone number:		Email: s.22
Are you under the age of 19? s.22			
Are you covered by a collective agreement?			

**Page 6 of 169**

NO
If YES, provide union's name:

**Section C: Authorization**

If you authorize anyone to act on your behalf, please provide:

Name:	Phone:	Email:
-------	--------	--------

**If you will be using an interpreter, please provide:**

Name:	Phone:	Email:
-------	--------	--------

**Section D: Details About Your Employment**

Job Title: Server	First Day Worked: s.22	Last Day Worked: s.22
Rate of Pay: s.22	How often were you paid? Twice a month :	
Number of hours worked per day: s.22	Number of days worked per week: s.22	Total hours worked per week: s.22
Do you have a record of the hours worked for this employer that are relevant to your claim?: Yes		
Employment status: s.22		
If the number of hours worked per day, or days worked per week are varied, please describe: s.22		

**Section E: What Do You Believe You Are Owed?**

	From date	To date	Estimated amounts
<input type="checkbox"/> Regular Wages			\$0
<input type="checkbox"/> Overtime			\$0
Were you paid your regular rate of pay for overtime hours worked? No			
<input type="checkbox"/> Annual Vacation Pay			\$0
<input type="checkbox"/> Statutory Holiday Pay	Specify Holiday(s):		\$0
<input checked="" type="checkbox"/> Unauthorized Deductions	Specify: Please see Section F		\$0
<input type="checkbox"/> Commissions			\$0
<input type="checkbox"/> Pregnancy/Parental/ or other leave			\$0

**Page 7 of 169**

<input type="checkbox"/> Compensation for Length of Service (sometimes called Severance/Termination Pay)		\$0
<input type="checkbox"/> Other	Specify:	\$0
Estimated Total Amount:		\$0

**Section F: Details Of Your Complaint**

On <sup>s.22</sup> I received an email from my employer stating that our tips had been restructured as of <sup>s.22</sup> as a result of minimum wage going up. My employer said they could not afford the raise, so they would be taking \$1.30 per hour per server away from the Servers and giving it to the Chefs. In turn, they would be deducting \$1.30 per hour off each chef's hourly pay (not exceeding the minimum wage). While I understand that my employer can restructure the tip pool as they wish, they need to inform their employees before doing so. Most importantly, they cannot restructure the tip pool in order to subsidize wages, which is what they have admitted to doing. If you wish to see the document they provided, I will be happy to submit for a more elaborate explanation of what they did and why.

**Section G: Declaration And Complaint Submission**

Do you consent to your contact information being disclosed to your employer?  
Yes



**Bhamra, Harsha LBR:EX**

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**From:** Blackburn, Tania LBR:EX  
**Sent:** July 22, 2019 9:59 AM  
**To:** LBR ESB Richmond LBR:EX  
**Subject:** ER 413540 Asgn 1296993  
**Attachments:** Complaint\_1798512<sup>s.2</sup>html

<https://esb-cts.labour.gov.bc.ca/ESB/Assignment/ViewDetails.aspx?assignmentID=1296993&msg=Save+was+successful>.

---

**From:** noreply@gov.bc.ca  
**Sent:** July 11, 2019 8:51 AM  
**To:** ESB Data Integrity LBR:EX  
**Subject:** 1798512<sup>s.22</sup>

**Submission:**  
1798512<sup>s.22</sup>

**Receivership:**  
No

**Employee Name:**  
<sup>s.22</sup>

**Employee Location:**  
<sup>s.22</sup>

**Employer Name:**  
Nancy O's

**Employer Location:**  
1261 3rd Ave, PRINCE GEORGE, BC, Canada V2L3E6

**Work Location:**  
, , ,

**Union:**  
No

**Bhamra, Harsha LBR:EX**

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**From:** Sidhu, Shivneer K LBR:EX  
**Sent:** November 12, 2019 4:26 PM  
**To:** s.22  
**Subject:** Employment Standards Branch Complaint- s.22  
**Attachments:** Out of Time Letter- s.22 ER 413540.pdf

Attn: s.22

Please find attached a letter in regards to your complaint filed against Nancy O's Restaurant Group Inc. Feel free to contact me at the contact information listed below by the deadline indicated in the letter.

With regards,

Shani Sidhu  
Employment Standards Delegate | Employment Standards Branch  
14672 108A Ave., Surrey, BC V3R 1W8  
604-398-5672 | [Shivneer.Sidhu@gov.bc.ca](mailto:Shivneer.Sidhu@gov.bc.ca)  
***Get information about Employment Standards in the language of your choice at 1-833-236-3700***

**Bhamra, Harsha LBR:EX**

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**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bcgov.onmicrosoft.com>  
**To:** s.22  
**Sent:** November 12, 2019 4:26 PM  
**Subject:** Relayed: Employment Standards Branch Complaint- s.22

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

s.22

Subject: Employment Standards Branch Complaint- s.22



Employment  
Standards Branch...

November 12, 2019

File # 413540  
By E-mail

s.22

Dear <sup>s.22</sup>

**Re: Nancy O's Restaurant Group Inc. – and – The Employment Standards Act**

You recently filed a complaint with the Employment Standards Branch which appears to fall outside the six month time limit for filing a complaint under the Employment Standards Act.

According to the information you provided on your complaint form, your last day of work with this employer was <sup>s.22</sup> Therefore, the time for filing your complaint ended six months later on <sup>s.22</sup>

The Act provides that the director (or his delegate) may refuse to proceed with a complaint if it is not made within the time limit. Relevant sections of the Act are attached for your reference. Before I can proceed with investigating the merits of your complaint, I must make a decision as to whether to extend the time period for you to file your complaint. Extensions are not granted as a matter of course.

In order to make my decision, I must consider the purposes of the Act. One of these is to ensure that employees receive at least basic standards of compensation and conditions of employment. Others include promoting the fair treatment of both employers and employees and providing fair and efficient procedures for resolving disputes. The six month time limit helps to achieve these last two purposes.

To assist me in making my decision, I need further information as to why you failed to file your complaint within the six month time limit. Please provide details **in writing**, including any supporting documentation, of why you failed to file your complaint within the six month time limit, particularly any contact you had with the Branch.

**To ensure timely resolution of this matter, please provide your written response no later than November 26, 2019.** If I do not hear from you by **November 26, 2019**, I may issue a written decision using the evidence currently in your file.

Please feel free to contact me if you have any questions about this process.

Yours truly,

A handwritten signature in black ink, appearing to read 'Shani Sidhu', with a stylized flourish at the end.

Shani Sidhu  
Delegate of the Director  
of Employment Standards  
Shivneer.Sidhu@gov.bc.ca



Province of British Columbia  
Ministry of Labour  
Employment Standards Act

## Purposes of this Act

**2** The purposes of this Act are as follows:

- (a) to ensure that employees in British Columbia receive at least basic standards of compensation and conditions of employment;
- (b) to promote the fair treatment of employees and employers;
- (c) to encourage open communication between employers and employees;
- (d) to provide fair and efficient procedures for resolving disputes over the application and interpretation of this Act;
- (e) to foster the development of a productive and efficient labour force that can contribute fully to the prosperity of British Columbia;
- (f) to contribute in assisting employees to meet work and family responsibilities.

## Complaint and time limit

**74** (1) An employee, former employee or other person may complain to the director that a person has contravened

- (a) a requirement of Parts 2 to 8 of this Act, or
- (b) a requirement of the regulations specified under section 127 (2) (l).

(2) A complaint must be in writing and must be delivered to an office of the Employment Standards Branch.

(3) A complaint relating to an employee whose employment has terminated must be delivered under subsection (2) within 6 months after the last day of employment.

(3.1) Subsection (3) applies to an employee whose employment is terminated following a temporary layoff and, for that purpose, the last day of the temporary layoff is deemed to be the last day of employment referred to in subsection (3).

(4) A complaint that a person has contravened a requirement of section 8, 10 or 11 must be delivered under subsection (2) within 6 months after the date of the contravention.

## **Investigations**

**76** (1) Subject to subsection (3), the director must accept and review a complaint made under section 74.

(2) The director may conduct an investigation to ensure compliance with this Act and the regulations, whether or not the director has received a complaint.

(3) The director may refuse to accept, review, mediate, investigate or adjudicate a complaint or may stop or postpone reviewing, mediating, investigating or adjudicating a complaint if

(a) the complaint is not made within the time limit specified in section 74 (3) or (4),

(b) this Act does not apply to the complaint,

(c) the complaint is frivolous, vexatious or trivial or is not made in good faith,

(d) the employee has not taken the requisite steps specified by the director in order to facilitate resolution or investigation of the complaint,

(e) there is not enough evidence to prove the complaint,

(f) a proceeding relating to the subject matter of the complaint has been commenced before a court, a tribunal, an arbitrator or a mediator,

(g) a court, a tribunal or an arbitrator has made a decision or an award relating to the subject matter of the complaint,

(h) the dispute that caused the complaint may be dealt with under section 3 (7), or

(i) the dispute that caused the complaint is resolved.



**Bhamra, Harsha LBR:EX**

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**From:** s.22  
**Sent:** November 18, 2019 9:13 AM  
**To:** Sidhu, Shivneer K LBR:EX  
**Subject:** Re: Employment Standards Branch Complaint- s.22  
**Attachments:** Employment Standards Response.pdf

Hello Shani,

Please see attached.

Regards,

s.22

On Tue, Nov 12, 2019 at 4:26 PM Sidhu, Shivneer K LBR:EX <[Shivneer.Sidhu@gov.bc.ca](mailto:Shivneer.Sidhu@gov.bc.ca)> wrote:

Attn: s.22

Please find attached a letter in regards to your complaint filed against Nancy O's Restaurant Group Inc. Feel free to contact me at the contact information listed below by the deadline indicated in the letter.

With regards,

Shani Sidhu

Employment Standards Delegate | Employment Standards Branch

14672 108A Ave., Surrey, BC V3R 1W8

604-398-5672 | [Shivneer.Sidhu@gov.bc.ca](mailto:Shivneer.Sidhu@gov.bc.ca)

*Get information about Employment Standards in the language of your choice at 1-833-236-3700*

--

Chief's Executive Assistant



s.22

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November 18, 2019

***Sent Via Email***

Shani Sidhu - Employment Standards Delegate  
14672 108A Avenue  
Surrey, BC  
V3R 1WA

Dear Shani,

**RE: Nancy O's Restaurant**

Thank you for your response to my complaint regarding Nancy O's Restaurant.

As you will see in my file, the issues that arose with the Employer came up in June of 2019 when the minimum wage increased.

s.22

**Attachment: Excerpt of Letter to Staff by Nancy O's Restaurant LTD:**

**OUR PLAN FRONT OF HOUSE**

As of June 1<sup>st</sup>, every front of house staff member, whether making minimum wage or not, will be given a raise of \$1.30/hr. Employees at minimum wage will be at the new minimum wage amount, employees making more than minimum wage will be paid proportionately more than minimum wage.

Example

<b>Pre minimum wage</b> 35 hour work week wage 35hrs x \$11.40 = \$399 <u>tips= \$450 (avg \$12.87/hr)</u> <b>total remuneration = \$849.00</b>	<b>post minimum wage</b> 35 hour work week wage 35hrs x \$12.70/hr = \$444.50 <u>tips = \$450 – (35hrs x \$1.30/hr)= 404.50</u> <b>total remuneration = \$849.00</b>
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\*\* The \$1.30 per hour taken off tips are still restaurant tips and cannot be taken by the restaurant for day to day operations. These extra tips will be used to increase the tips of kitchen staff. The kitchen staffs wages will decrease in the same amount as their tips increase, for no net increase in their remuneration.

As of June 15<sup>th</sup>, every kitchen staff members pay will be demoted in an amount equal to the increased in tips

**Bhamra, Harsha LBR:EX**

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**From:** Sidhu, Shivneer K LBR:EX  
**Sent:** December 11, 2019 3:45 PM  
**To:** s.22  
**Subject:** Follow up: Employment Standards Branch Complaint, ER 413540 Nancy O's Restaurant Group Inc.

Atn: s.22

Hi s.22

In regards to your above noted complaint, I am writing to follow up on our conversation from November 19, 2019. During our conversation you had indicated that you were s.22

s.22 As a result, the complaint has been forwarded to another unit for follow up. I trust you will find this to be in line with the concerns you had expressed during our initial conversation.

Please note the Delegate assigned will only be in contact with you should they require information that they are unable to obtain from the parties named in the complaint. I thank you for your time.

With regards,

Shani Sidhu  
Employment Standards Officer | Employment Standards Branch  
14672 108A Ave., Surrey, BC V3R 1W8  
604-398-5672 | [Shivneer.Sidhu@gov.bc.ca](mailto:Shivneer.Sidhu@gov.bc.ca)

***Get information about Employment Standards in the language of your choice at 1-833-236-3700***

### Delegate

Alternate Ph: Garrett Cell<sup>s.22</sup>

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Withheld pursuant to/removed as

s.21; s.22

January 22, 2020

ER # 413540  
Sent by Registered Mail and Email

To: Nancy O's Restaurant Group Inc.  
1209 Fourth Avenue  
Prince George, BC, V2L 3J5

Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

Garrett<sup>s.22</sup> Fedorkiw (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

Eoin<sup>s.22</sup> Foley (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

**Attention:** Nancy O's Restaurant Group Inc.; Garrett<sup>s.22</sup> Fedorkiw; Eoin<sup>s.22</sup> Foley

**Re:** Notice of Investigation

On July 11, 2019, the Employment Standards Branch (the Branch) received a 3<sup>rd</sup> party complaint filed against Nancy O's Restaurant Group Inc. carrying on business as Nancy O's. The complaint alleges that Nancy O's restructured its tip pool to subsidize wages, which may contravene the *Employments Standards Act* (the Act). This letter is to give notice of investigation and opportunity to respond.

The complaint details the restructuring to be a result of the minimum wage increase that occurred on June 1, 2019 and includes deductions of \$1.30 per hour from each server's tips to increase the kitchen staff's tips by \$1.30 per hour. In turn, a deduction of \$1.30 per hour was made from each kitchen staff's hourly wage.

Two attempts were made to contact the owners by telephone calls to the restaurant on January 16, 2020 and January 20, 2020. Both times the Delegate's phone number and email were left with an employee to be passed on to the owners.

**Should you disagree with the above allegations, please provide all written arguments and evidence to support your position no later than February 5, 2020 at 1:00 PM PST.** Should you fail to respond by the above date, a determination with applicable penalties may be issued, without further notice to you, based on the information on file.



Additionally, the Branch requires Employer records detailing how all tips collected since May 1, 2019 have been redistributed. Enclosed is a Demand for Employer Records with a due date of **February 5, 2020 at 1:00 PM PST.**

Once we receive your records and commence our review, we may need to contact you for further information or clarification. If we have any concerns, you will be given an opportunity to respond. If you are found to be out of compliance with the requirements of the Act and the Regulation, a written determination may be issued with applicable monetary penalties.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nikolina Lalic', with a stylized, cursive script.

Nikolina Lalic  
Delegate of the Director  
of Employment Standards  
778-572-4022  
nikolina.lalic@gov.bc.ca

## Demand for Employer Records

January 22, 2020

ER # 413540

Sent by Registered Mail and Email

To: Nancy O's Restaurant Group Inc.  
1209 Fourth Avenue  
Prince George, BC, V2L 3J5

Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

Garrett <sup>s.22</sup> Fedorkiw (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

Eoin <sup>s.22</sup> Foley (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC, V2L 3E6

Pursuant to section 85 of the *Employment Standards Act* (the "Act"), Nancy O's Restaurant Group Inc. carrying on business as Nancy O's is required to disclose, produce and deliver all employment records for:

Name:

All employees (current and former)

Period:

May 1, 2019 – January 22, 2020

The payroll records required are:

- any and all payroll records relating to wages, hours of work and conditions of employment as specified in Section 28 of the Employment Standards Act

The gratuity (tip) records required are:

- any records that pertain to tip payments, including records to show how many tips were collected and how they were redistributed

**You are required** to disclose, produce and deliver the records specified in this Demand to the Employment Standards Branch on or before:

**February 5, 2020 at 1:00 PM PST**

The records may be delivered in person or by mail to #250-4600 Jacombs Road, Richmond, BC V6V 3B1. Alternatively, the records may be delivered by fax to (604) 713-0450 or by email in PDF format to nikolina.lalic@gov.bc.ca.

Failure to produce these records as required will result in a Determination being issued. Where a Determination contains a finding of a contravention of the Act or Regulation an escalating administrative penalty will be imposed under Section 29 and 46 of the Employment Standards Regulation (minimum \$500.00).

If a determination finds that wages and penalties are owed, **directors and officers of corporations are personally liable** to pay up to two months' wages for each employee and may also be required to pay the penalties resulting from the contraventions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nikolina Lalic', written in a cursive style.

Nikolina Lalic  
Delegate of the Director of  
Employment Standards  
778-572-4022

**EMPLOYMENT STANDARDS ACT**

(excerpts)

**Entry and inspection powers**

- 85** (1) For the purposes of ensuring compliance with this Act and the regulations, the director may do one or more of the following:
- (a) enter during regular working hours any place, including any means of conveyance or transport, where
    - (i) work is or has been done or started by employees,
    - (ii) an employer carries on business or stores assets relating to that business,
    - (iii) a record required for the purposes of this Act is kept, or
    - (iv) anything to which this Act applies is taking place or has taken place;
  - (b) inspect, and question a person about, any work, material, appliance, machinery, equipment or other thing in the place;
  - (c) inspect any records that may be relevant to an investigation under this Part;
  - (d) on giving a receipt for a record examined under paragraph (c), remove the record to make copies or extracts;
  - (e) require a person to disclose, either orally or in writing, a matter required under this Act and require that the disclosure be under oath or affirmation;
  - (f) require a person to produce, or to deliver to a place specified by the director, any records for inspection under paragraph (c).
- (2) Despite subsection (1), the director may enter a place occupied as a private residence only with the consent of the occupant or under the authority of a warrant issued under section 120.

**Payroll records**

- 28** (1) For each employee, an employer must keep records of the following information:
- (a) the employee's name, date of birth, occupation, telephone number and residential address;
  - (b) the date employment began;
  - (c) the employee's wage rate, whether paid hourly, on a salary basis or on a flat rate, piece rate, commission or other incentive basis;
  - (d) the hours worked by the employee on each day, regardless of whether the employee is paid on an hourly or other basis;
  - (e) the benefits paid to the employee by the employer;
  - (f) the employee's gross and net wages for each pay period;
  - (g) each deduction made from the employee's wages and the reason for it;
  - (h) the dates of the statutory holidays taken by the employee and the amounts paid by the employer;
  - (i) the dates of the annual vacation taken by the employee, the amounts paid by the employer and the days and amounts owing;
  - (j) how much money the employee has taken from the employee's time bank, how much remains, the amounts paid and dates taken.
- (2) Payroll records must
- (a) be in English,
  - (b) be kept at the employer's principal place of business in British Columbia, and
  - (c) be retained by the employer for 4 years after the date on which the payroll records were created.

**EMPLOYMENT STANDARDS REGULATIONS**

(excerpts)

**Production of records**

**46(1)** A person who is required under section 85 (1) (f) of the Act to produce or deliver records to the director must produce or deliver the records as and when required.

**Administrative penalties**

**29** (1) Subject to section 81 of the Act and any right of appeal under Part 13 of the Act, the following monetary penalties are prescribed for the purposes of section 98(1) of the Act:

- (a) a fine of \$500 if the director determines that a person has contravened a requirement under the Act, unless paragraph (b) or (c) applies;
- (b) a fine of \$2 500 if
  - (i) after the date of a determination under paragraph (a), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (a), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (a),

unless paragraph (c) applies;

- (c) a fine of \$10 000 if
  - (i) after the date of a determination under paragraph (b), the director determines that the person contravened the requirement referred to in that paragraph subsequent to the determination under paragraph (b), and
  - (ii) that subsequent contravention occurs within 3 years after the date of the most recent contravention of the same requirement in relation to which there has been a determination under paragraph (b).

- (1.1) For the purposes of subsection (1), an act or omission of an employer constituting a contravention of a requirement under the Act is deemed to be a single contravention regardless of the number of employees affected by the contravention.

**FAILURE TO COMPLY WITH THIS DEMAND WILL RESULT IN A  
PENALTY BEING ISSUED WITHOUT FURTHER NOTICE.**

**EMPLOYMENT STANDARDS ACT**  
(excerpts)

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) [Repealed 2019-27-30]
  - (c) vacation pay that becomes payable after the director or officer ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (b) any vice chair of the board of directors or other governing body of the corporation, if that vice chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (c) the president of the corporation, regardless of the title by which that person is designated,
  - (d) any vice president in charge of a principal business unit of the corporation, including sales, finance or production, regardless of the title by which that person is designated, and
  - (e) any officer of the corporation, whether or not the officer is also a director of the corporation, who performs a policy-making function in respect of the corporation and who has the capacity to influence the direction of the corporation, regardless of the title by which that person is designated;

**"corporation"** means a corporation as defined in the *Business Corporations Act*, and includes a corporation that, under section 95 of this Act, the director treats as one employer.

**Section 98: Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
- (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
- (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.
- (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
- (a) has been convicted of an offence under this Act or the regulations, or
  - (b) is also liable to pay a fine for an offence under section 125.
- (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

Page 253 of 390 to/à Page 254 of 390

Withheld pursuant to/removed as

s.21



Page 255 of 390 to/à Page 274 of 390

Withheld pursuant to/removed as

s.21; s.22

Page 275 of 390

Withheld pursuant to/removed as

s.22; s.21

Page 276 of 390 to/à Page 277 of 390

Withheld pursuant to/removed as

s.21; s.22

Page 278 of 390

Withheld pursuant to/removed as

s.22; s.21

Page 279 of 390 to/à Page 291 of 390

Withheld pursuant to/removed as

s.21; s.22

Page 292 of 390

Withheld pursuant to/removed as

s.22

Page 293 of 390 to/à Page 297 of 390

Withheld pursuant to/removed as

s.21; s.22

Page 298 of 390

Withheld pursuant to/removed as

s.22; s.21



Page 299 of 390 to/à Page 300 of 390

Withheld pursuant to/removed as

s.21; s.22

**Bhamra, Harsha LBR:EX**

---

**From:** Lalic, Nikolina LBR:EX  
**Sent:** January 22, 2020 10:30 AM  
**To:** 'contact@nancyos.ca'  
**Subject:** Notice of Investigation & Demand for Employer Records  
**Attachments:** Notice of Investigation Letter and Opportunity to Respond - Nancy O's.pdf; Demand for Employer Records - Nancy O's.pdf  
  
**Importance:** High

Hello Mr. Fedorkiw and Mr. Foley,

Please find attached copies of the notice of investigation and demand for employer records that were sent via registered mail. Failure to comply with the demand **by February 5, 2020 at 1:00 PM PST** may result in a penalty being issued without further notice.

Sincerely,  
Nikolina

--

**Nikolina Lalic**

Employment Standards | Ministry of Labour  
#250 - 4600 Jacombs Road, Richmond, BC V6V 3B1  
(778) 572-4022 | [nikolina.lalic@gov.bc.ca](mailto:nikolina.lalic@gov.bc.ca)  
*Website:* [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb)

*Get information about Employment Standards in the language of your choice at 1 833-236-3700*

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**Bhamra, Harsha LBR:EX**

---

**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bcgov.onmicrosoft.com>  
**To:** contact@nancyos.ca  
**Sent:** January 22, 2020 10:31 AM  
**Subject:** Relayed: Notice of Investigation & Demand for Employer Records

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[contact@nancyos.ca](mailto:contact@nancyos.ca)

Subject: Notice of Investigation & Demand for Employer Records



Notice of  
Investigation & ...

**Bhamra, Harsha LBR:EX**

---

**From:** Garrett Fedorkiw -s.22  
**Sent:** February 3, 2020 9:56 AM  
**To:** Lalic, Nikolina LBR:EX  
**Cc:** s.22  
**Subject:** ER# 413550  
**Attachments:** BC government opening letter -.pdf; hours worked nancyos staff.pdf; nancys wages .pdf; TIPS for bc gov't.pdf

Please see attached documents, in PDF format as requested in your email sent January 22nd, 2020.  
If you require any further information, or need clarification on any of these documents please do not hesitate to contact me.

regards,

Garrett S- Fedorkiw BComm  
CEO Nancy O's Restaurant Group Inc  
cell: s.22  
work ; (250) 562-8066

**Bhamra, Harsha LBR:EX**

---

**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bcgov.onmicrosoft.com>  
**To:** contact@nancyos.ca  
**Sent:** April 30, 2020 4:36 PM  
**Subject:** Relayed: Employee Information - Nancy O's Restaurant Group Inc.

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[contact@nancyos.ca](mailto:contact@nancyos.ca)

Subject: Employee Information - Nancy O's Restaurant Group Inc.



Employee  
Information - Na...

**Bhamra, Harsha LBR:EX**

---

**From:** Lalic, Nikolina LBR:EX  
**Sent:** May 5, 2020 12:07 PM  
**To:** s.22  
**Subject:** RE: Employee Information - Nancy O's Restaurant Group Inc.

Received!

Thank you,  
Nikolina

---

**From:** s.22  
**Sent:** May 4, 2020 11:40 AM  
**To:** 'Garrett Fedorkiw' s.22 Lalic, Nikolina LBR:EX <Nikolina.Lalic@gov.bc.ca>  
**Subject:** RE: Employee Information - Nancy O's Restaurant Group Inc.

Hi Nikolina

Attached is what I have for addresses for servers at Nancy O's as per your request.

s.22

---

**From:** Garrett Fedorkiw s.22  
**Sent:** Thursday, April 30, 2020 5:43 PM  
**To:** Lalic, Nikolina LBR:EX <Nikolina.Lalic@gov.bc.ca>; s.22  
**Subject:** Re: Employee Information - Nancy O's Restaurant Group Inc.

Hi Nikolina, I received your email and will get the requested information to you as soon as possible.

s.22

Can you please provide Nikolina Lalic with the requested information below?  
thx,

Garrett s.22 Fedorkiw BComm  
CEO Nancy O's Restaurant Group Inc  
s.22  
work ; (250) 562-8066

Good afternoon,

The Employment Standards Branch requires additional employee information pertaining to the Nancy O's investigation on gratuities. A written decision will be issued and it is a requirement to serve all parties involved.

Please provide the last known residential addresses of all the server employees, as required by the Demand for Employer Records issued on January 22, 2020 and pursuant to section 28 of the Employment Standards Act. Please provide this information no later than **May 8, 2020**.

Failure to produce these records may result in a penalty being imposed under Section 29 and 46 of the Employment Standards Regulation.

Sincerely,

Nikolina

--

**Nikolina Lalic**

Employment Standards | Ministry of Labour  
#250 - 4600 Jacombs Road, Richmond, BC V6V 3B1

(778) 572-4022 | [nikolina.lalic@gov.bc.ca](mailto:nikolina.lalic@gov.bc.ca)  
Website: [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb)

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**Bhamra, Harsha LBR:EX**

---

**From:** Garrett Fedorkiw <sup>s.22</sup>  
**Sent:** June 5, 2020 11:20 AM  
**To:** Lalic, Nikolina LBR:EX  
**Cc:** Eoin Foley; <sup>s.22</sup>  
**Subject:** Re: Determination via Email & Registered Mail

Hi Nikolina

The funds requested have been sent to you via express post



Withheld pursuant to/removal as

s.21

# Xpresspost<sup>TM/MC</sup>

To | À :

Name | Nom

Director Employment Standards



Address | Adresse

PO Box 9570 Stru. Prov. Govt

Telephone No. | N° de téléphone



City | Ville

Victoria

Prov.

BC

Postal Code | Code postal

V8W 9H L

For delivery confirmation  
canadapost.ca or 1 888 550-6333Confirmation de la livraison  
postescanada.ca ou 1-888-550-6333

PG 547 098 978 CA

From | De :

PULL HERE TO REMOVE THE CUSTOMER RECEIPT  
TIREZ ICI POUR ENLEVER CE REÇU DU CLIENT

Name | Nom

Nanny O'S Restaurant

Date

202 YYAA MM DD

Address | Adresse

1261 3rd ave

Customer No. | N° du client

Telephone No. | N° de téléphone

250-562-8066

Postal Code | Code postal

V2L 3E6

City | Ville

Prince George

Prov.

BC

Sender warrants that this item does not contain non-mailable matter.

L'expéditeur garantit que cet envoi ne contient pas d'objets inadmissibles.

A00000000041010  
00000008000

INVOICE NUMBER

162140301

01 APPROVED-THANK YOU 027

On Mon, Jun 1, 2020 at 8:12 AM Lalic, Nikolina LBR:EX <[Nikolina.Lalic@gov.bc.ca](mailto:Nikolina.Lalic@gov.bc.ca)> wrote:

Hello,

Please see the attached Determination. **A physical copy is to be delivered by Registered Mail.**

Please ensure that you pay **\$11,996.29**. Please send a certified cheque or money order made out to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria BC V8W 9K1, within five working days, otherwise this file may be sent to Collections without further notice.

Thank you,

Nikolina

--

**Nikolina Lalic**

Employment Standards | Ministry of Labour  
#250 - 4600 Jacombs Road, Richmond, BC V6V 3B1

(778) 572-4022 | [nikolina.lalic@gov.bc.ca](mailto:nikolina.lalic@gov.bc.ca)  
Website: [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb)

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--

Garrett S. Fedorkiw BComm  
CEO Nancy O's Restaurant Group Inc  
s.22  
work ; (250) 562-8066

**Bhamra, Harsha LBR:EX**

---

**From:** Lalic, Nikolina LBR:EX  
**Sent:** May 28, 2020 3:45 PM  
**To:** 'contact@nancyos.ca'  
**Cc:** s.22  
**Subject:** Determination via Email & Registered Mail  
**Attachments:** ER413540 Nancy O's Restaurant Group Inc. CDET.pdf  
  
**Importance:** High

Hello,

Please see the attached Determination. **A physical copy is to be delivered by Registered Mail.**

Please ensure that you pay **\$11,996.29**. Please send a certified cheque or money order made out to the Director of Employment Standards, PO Box 9570 Stn Prov Govt, Victoria BC V8W 9K1, within five working days, otherwise this file may be sent to Collections without further notice.

Thank you,  
Nikolina

--

**Nikolina Lalic**

Employment Standards | Ministry of Labour  
#250 - 4600 Jacombs Road, Richmond, BC V6V 3B1  
(778) 572-4022 | nikolina.lalic@gov.bc.ca  
Website: [www.labour.gov.bc.ca/esb](http://www.labour.gov.bc.ca/esb)

*Get information about Employment Standards in the language of your choice at 1 833-236-3700*

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**Bhamra, Harsha LBR:EX**

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**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bcgov.onmicrosoft.com>  
**To:** s.22  
**Sent:** June 1, 2020 8:13 AM  
**Subject:** Relayed: Determination via Email & Registered Mail

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

s.22

Subject: Determination via Email & Registered Mail



Determination via  
Email & Regi...

**Bhamra, Harsha LBR:EX**

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**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@bcgov.onmicrosoft.com>  
**To:** contact@nancyos.ca  
**Sent:** June 1, 2020 8:13 AM  
**Subject:** Relayed: Determination via Email & Registered Mail

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[contact@nancyos.ca](mailto:contact@nancyos.ca)

Subject: Determination via Email & Registered Mail



Determination via  
Email & Regi...

May 29, 2020

ER # 413540  
Sent by Email and Registered Mail

Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6

**Director of Employment Standards – and – Nancy O's Restaurant Group Inc.**

---

I have determined that the *Employment Standards Act* (the Act) has been contravened.  
Accordingly,<sup>s.22</sup>  
s.22

s.22 are entitled to wages and  
interest. Pursuant to section 79 of the Act, I require Nancy O's Restaurant Group Inc. to  
pay the following:

Deductions from Gratuities (section 30.3 of the Act)	\$ 10,381.00
Accrued interest (section 88 of the Act)	\$115.29
<b>A. Wages payable to employees</b>	<b>\$10,496.29</b>

Section 98(1) of the Act requires that a mandatory administrative penalty be imposed for each contravention of a requirement of the Act or Regulation. Penalty amounts are set out in section 29(1) of the Regulation.

Contravention	Work Location	Date	Amount
Act Section 21	1261 Third Avenue, Prince George, BC V2L 3E6	January 22, 2020	\$ 500.00
Act Section 30.3	1261 Third Avenue, Prince George, BC V2L 3E6	January 22, 2020	\$ 500.00
Act Section 16	1261 Third Avenue, Prince George, BC V2L 3E6	January 9, 2020	\$ 500.00
<b>B. Total administrative penalty amount</b>			<b>\$ 1,500.00</b>
<b>C. Total amount payable</b>			<b>\$11,996.29</b>



I order Nancy O's Restaurant Group Inc. to cease contravening the sections of the Act determined to have been contravened and to comply with all of the requirements of the Act and Regulation.

I order Nancy O's Restaurant Group Inc. to pay **\$11,996.29**. Please send a certified cheque or money order payable to the Director of Employment Standards, P.O. Box 9570, Stn Prov Govt, Victoria, B.C., V8W 9K1, **within five working days**.

If statutory deductions are withheld from the wages payable to the employee (line A above), include a statement indicating the individual amounts remitted to Canada Revenue Agency. The administrative penalty (line B above) is not subject to statutory deductions.

Additional interest begins to accrue at the end of the appeal period noted below on any amounts that remain unpaid.

If payment is not received within five working days, **collection proceedings may be commenced without further notice**. This may include filing the Determination in British Columbia Supreme Court and issuing a writ of seizure and sale to be executed by the Court Bailiff. Any fees and costs incurred by the Court Bailiff will be added to the Determination amount owing and will be charged to the Employer.

If you appeal this determination funds paid or collected will be held in the Director's trust account during the tribunal appeal process.

In accordance with section 87 of the Act, unpaid wages constitute a lien, charge and secured debt in favour of the Director of Employment Standards. The amount of this lien, charge and secured debt is payable and enforceable in priority over all other liens, judgments, charges and security interests except certain mortgage advances.

**Under the Act, directors and officers of companies can also be required to pay wages owed to employees.** Directors and officers who authorize, permit or acquiesce in a contravention of the Act are also liable to pay administrative penalties.

In accordance with section 101 of the Act, the Director may publish information relating to contraventions of the Act or Regulation including the identity of persons named in a Determination.



Nikolina Lalic  
Delegate of the Director of  
Employment Standards



cc: c/o Registered and Records Office  
Nancy O's Restaurant Group Inc.  
1209 Fourth Avenue  
Prince George, BC V2L 3J5

Garrett<sup>s.22</sup> Fedorkiw (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6

Eoin<sup>s.22</sup> Foley (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6

And employees named in this Determination

**Appeal Information**

Should you wish to appeal this Determination, your appeal must be delivered to the **Employment Standards Tribunal** by 4:30 pm on July 6, 2020.

The Employment Standards Tribunal is separate and independent from the Employment Standards Branch. Information on how to appeal a Determination can be found on the Tribunal's website at [www.bcest.bc.ca](http://www.bcest.bc.ca) or by phone at (604) 775-3512.

## NOTICE TO DIRECTORS / OFFICERS

You are being provided with a copy of this determination because an online BC Registry Services search indicates you are a director or officer of this company. If information regarding your standing as a director or officer of this company is not current **it is your responsibility** to provide updated information to the Employment Standards Branch.

If you, as a director/officer of the company that is the subject of this Determination, dispute any of the findings contained in the Determination, you should ensure that the company files an appeal within the appeal period noted in the Determination.

The Employment Standards Branch will commence collection proceedings if voluntary payment is not made. If the Employment Standards Branch has difficulty collecting against the company, **proceedings will be commenced against directors and officers** of the company for the amount of their personal liability as set out in the Act. A director or officer may also be held liable for a penalty imposed on the company if he or she authorized, permitted or acquiesced in the company's contravention.

If a separate Determination is made against you as a director/officer of a company, you may not argue the merits of this Determination against the company by appealing the Determination that is made against you as a director/officer.

There are only three grounds on which you may appeal a Determination made against you as a director/officer:

- 1) That you were not a director/officer of the company at the time wages were earned or should have been paid;
- 2) That the calculation of your personal liability as a director/officer is incorrect; and/or,
- 3) That you should not be liable for the penalty, where a penalty has been imposed, on the grounds that you did not authorize, permit or acquiesce in the company's contravention.

**EMPLOYMENT STANDARDS ACT**  
(excerpts)

**Section 96: Corporate officer's liability for unpaid wages**

- 96 (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.
- (2) Despite subsection (1), a person who was a director or an officer of a corporation is not personally liable for
- (a) any liability to an employee under section 63, termination pay or money payable in respect of individual or group terminations, if the corporation
    - (i) is in receivership, or
    - (ii) is subject to action under section 427 of the *Bank Act* (Canada) or to a proceeding under an insolvency Act,
  - (b) (repealed),
  - (c) vacation pay that becomes payable after the director or officer of a corporation ceases to hold office, or
  - (d) money that remains in an employee's time bank after the director or officer of a corporation ceases to hold office.
- (2.1) If a corporation that is a talent agency has received wages from an employer on behalf of an employee and fails to pay those wages, less any fees allowed under the regulations, to the employee within the time required under the regulations,
- (a) a person who was a director or officer of the corporation at the time the wages were received is personally liable for the amount received by the corporation from the employer, less any fees allowed under the regulations, and
  - (b) that amount is considered for the purposes of subsection (3) to be unpaid wages.
- (3) This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1) or (2.1).
- (4) In this section:
- "director"**, in relation to a corporation, means a person who is a member of the board of directors or other governing body of the corporation, regardless of the title by which that person is designated;
- "officer"**, in relation to a corporation, means
- (a) the chair of the board of directors or other governing body of the corporation, if that chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (b) any vice chair of the board of directors or other governing body of the corporation, if that vice chair performs the functions of the office on a full-time basis, regardless of the title by which that person is designated,
  - (c) the president of the corporation, regardless of the title by which that person is designated,

- (d) any vice president in charge of a principal business unit of the corporation, including sales, finance or production, regardless of the title by which that person is designated, and
- (e) any officer of the corporation, whether or not the officer is also a director of the corporation, who performs a policy-making function in respect of the corporation and who has the capacity to influence the direction of the corporation, regardless of the title by which that person is designated;

**"corporation"** means a corporation as defined in the *Business Corporations Act*, and includes a corporation that, under section 95 of this Act, the director treats as one employer.

### **Section 98: Monetary penalties**

- 98 (1) In accordance with the regulations, a person in respect of whom the director makes a determination and imposes a requirement under section 79 is subject to a monetary penalty prescribed by the regulations.
- (1.1) A penalty imposed under this section is in addition to and not instead of any requirement imposed under section 79.
  - (1.2) A determination made by the director under section 79 must include a statement of the applicable penalty.
  - (2) If a corporation contravenes a requirement of this Act or the regulations, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the contravention is also liable to the penalty.
  - (3) A person on whom a penalty is imposed under this section must pay the penalty whether or not the person
    - (a) has been convicted of an offence under this Act or the regulations, or
    - (b) is also liable to pay a fine for an offence under section 125.
  - (4) A penalty imposed under this Part is a debt due to the government and may be collected by the director in the same manner as wages.

**Director of Employment Standards**

## Reasons for the Determination

ER # 413540

Director of Employment Standards

- and -

Nancy O's Restaurant Group Inc.

**Delegate:** Nikolina Lalic  
Delegate of the Director of Employment Standards

**Date of Decision:** May 29, 2020

## INTRODUCTION

A third-party complaint was filed under section 74 of the *Employment Standards Act* (the Act). The complaint alleges that Nancy O's Restaurant Group Inc. (Nancy O's or the Employer) contravened the Act by restructuring its tip pool to subsidize wages.

I have completed my investigation into the allegations. I am providing these reasons to set out the basis for my decision pursuant to section 81 of the Act.

To protect each employee's privacy, the body of the Determination will only contain general information relevant to all employees. Information and calculations specific to individual employees will be set out on separate summary sheets. Each employee will receive his or her own summary sheet. The Employer will receive all of the summary sheets.

## BACKGROUND

A BC Registry Services Search conducted online on July 22, 2019, with a currency date of June 29, 2019, indicates that Nancy O's was incorporated in British Columbia on June 25, 2013 (Incorporation Number BC0973651). Garrett<sup>s.22</sup> Fedorkiw (Mr. Fedorkiw) and Eoin<sup>s.22</sup> Foley (Mr. Foley) are listed as both the directors and officers.

Nancy O's operates a restaurant in Prince George which falls within the jurisdiction of the Act. The Employer was notified of a director-initiated audit on January 22, 2020.

## ISSUES

1. Did Nancy O's contravene section 21 of the Act by requiring employees to pay its business costs?
2. Did Nancy O's contravene section 30.3 of the Act by deducting gratuities from employees?
3. Did Nancy O's contravene section 16 of the Act by failing to pay its employees minimum wage?

## INFORMATION PROVIDED BY THIRD PARTY

On July 11, 2019, the Employment Standards Branch (the Branch) received a third-party complaint alleging that Nancy O's restructured its tip pool to subsidize wages. It details the restructuring to be a result of the minimum wage increase which occurred on June 1, 2019. After minimum wage increased by \$1.30 per hour, Nancy O's began deducting \$1.30 per hour from each of the server's gratuities in order to increase each of the kitchen staff's gratuities by around \$1.30 per hour. This increase in gratuities to the kitchen staff was designed to offset equivalent reductions to their hourly wage rates.

In a letter to staff, the Employer explained that “As of June 15<sup>th</sup>, every kitchen staff members’ pay will be demoted in an amount equal to the increased in tips”.

### INFORMATION PROVIDED BY NANCY O’S

I spoke with Mr. Fedorkiw, one of the directors, who explained that Nancy O’s operates a tip pool based on hours worked and seniority. Before Nancy O’s restructured its tip pool system in June 2019, 80 percent of gratuities were allocated to the servers and 20 percent were allocated to the kitchen staff. Each employee then received a share based on their hours worked each week. Nancy O’s restructured this tip pool to coincide with the minimum wage increase so that no employee would receive a deduction in their hourly wages. Employees were given approximately one month of notice before the restructuring occurred.

As a result of the restructuring, the servers were deducted \$1.30 per hour worked each week from their share of gratuities. The kitchen staff experienced wage reductions ranging from \$1.15 to \$1.50 per hour based on their seniority and the percentage of their wage being reduced. Some kitchen staff did not receive wage reductions nor any of the \$1.30 deductions made from the servers because they were promised a certain wage rate or were hired after the tip restructuring occurred.<sup>s.22</sup> received extra gratuities because he performs extra work.

### FINDINGS AND ANALYSIS

1. Did Nancy O’s contravene section 21 of the Act by requiring employees to pay its business costs?

After the minimum wage increased by \$1.30 in June 2019, Nancy O’s began making deductions of \$1.30 per hour worked from each server’s gratuities. At the same time, Nancy O’s unilaterally reduced the hourly wage of its kitchen staff by between \$1.15 and \$1.50 per hour. The \$1.30 per hour of gratuities deducted from the servers was then paid to the kitchen staff to top them up to their previous hourly wage rates. Through collecting \$1.30 per hour from each server and using that money to guarantee hourly wages to its kitchen staff, Nancy O’s placed the burden of paying for the increase in minimum wage on its employees.

Section 21(2) of the Act states, “an employer must not require an employee to pay any of the employer’s business costs except permitted by the regulations.” If gratuities are used to pay business costs, “money required to be paid contrary to subsection (2) is deemed to be wages, whether or not the money is paid out of an employee’s gratuities, and this Act applies to the recovery of those wages.” I find that Nancy O’s contravened Section 21 of the Act by making deductions from the servers’ gratuities to pay the wages of the kitchen staff. I impose a \$500.00 administrative penalty for this contravention occurring on January 22, 2020, the most recent date Nancy O’s required its employees to pay its business costs.

2. Did Nancy O's contravene section 30.3 of the Act by deducting gratuities from servers?

The total gratuities collected are pooled and split between the servers (80 percent) and the kitchen staff (20 percent), and then allocated to each employee based on hours of work. Deductions of \$1.30 per hour worked were then made from each of the server's gratuities to top-up the kitchen staff to their previous wage rates. The remaining balance of the deductions was allocated to <sup>s.22</sup>

Section 30.3(1) of the Act states, "an employer must not (a) withhold gratuities from an employee, (b) make a deduction from an employee's gratuities, or (c) require an employee to return or give the employee's gratuities to the employer." If this section is contravened, "the amount withheld or deducted from the employee or required to be returned or given by the employee to the employer is a debt due to the employee and may be collected by the director in the same manner as wages." Section 30.4 of the Act provides an exception to this prohibition if the employer "redistributes gratuities among some or all of the employer's employees." In other words, tip pools are permitted. However, for a tip pool to be valid, the gratuities collected by an employer from its employees cannot be used to pay for business costs contrary to section 21 of the Act.

In this case, I find that a portion (\$1.30 per hour of work, the weekly total of which was rounded to the nearest dollar) of the deductions that Nancy O's made from the servers' gratuities were not used toward a valid tip pool as permitted under section 30.4 of the Act. Deducting gratuities to pay wages, a business cost, is contrary to section 21 of the Act. Therefore, I find that Nancy O's contravened section 30.3 of the Act by deducting \$1.30 per hour in gratuities from its servers. I impose a \$500.00 administrative penalty for this contravention occurring on January 22, 2020, the most recent date Nancy O's made deductions from employees' gratuities.

3. Did Nancy O's contravene section 16 of the Act by failing to pay its servers minimum wage?

The liquor server minimum wage is currently \$12.70 per hour. This is a \$1.30 increase from the rate of \$11.40 that was effective prior to June 1, 2019. After the minimum wage increased, Nancy O's began making deductions of \$1.30 per hour worked from each server's gratuities. Although the servers' hourly wage increased by \$1.30 per hour on their wage statements, that \$1.30 per hour was immediately clawed back by Nancy O's, resulting in no increase in the servers' employment income. The incomes of the kitchen staff stayed approximately the same because Nancy O's offset the differences through increasing the kitchen staff's gratuities by the exact amounts of their hourly wage reductions.

Section 16 of the Act states "an employer must pay an employee at least the minimum wage as prescribed in the regulations." Section 18.1 of the Regulation prescribes the minimum wage for liquor servers to be \$12.70 per hour. By deducting \$1.30 per hour from the servers' gratuities to pay the kitchen staff's wages, the servers essentially paid



for their own minimum wage increase. Increases in minimum wage cannot be circumvented by making deductions from employees' gratuities. I find that Nancy O's contravened section 16 of the Act by failing to pay its servers minimum wage. As Nancy O's failed to provide adequate records to show the pay periods it used to pay its employees, I deem the pay periods to be semi-monthly for the purpose of this contravention. The last full pay period during the period of my investigation was December 16, 2019 to December 31, 2019. The pay date for this pay period was due on January 8, 2020. I impose a \$500.00 administrative penalty for this contravention occurring on January 9, 2020, the most recent date Nancy O's failed to pay minimum wage.

## **INTEREST**

The server employees are entitled to interest pursuant to section 88 of the Act.

A handwritten signature in black ink, appearing to read "Nikolina Lalic".

Nikolina Lalic  
Delegate of the Director  
of Employment Standards

Page 325 of 390 to/à Page 360 of 390

Withheld pursuant to/removed as

s.22

**REGISTERED MAIL TRACE SHEET****MINISTRY OF LABOUR**





**BRANCH:** Employment Standards Branch  
Lower Mainland Region

**ADDRESS:** #250 – 4600 Jacombs Road  
Richmond, BC V6V 3B1

**TELEPHONE:** 1-800-663-3316  
**FAX:** (604) 713-0450

**Name of officer:** Nikolina Lalic

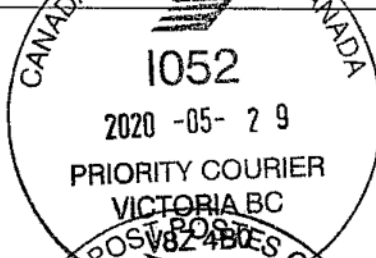


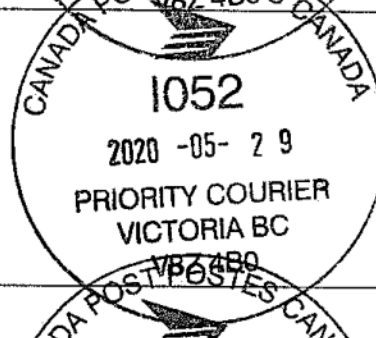

**Date:** January 22, 2020

<p>Nancy O's Restaurant Group Inc. 1209 Fourth Avenue Prince George, BC, V2L 3J5</p> <p> RN 434 089 317 CA</p>	<p>Notice of Investigation &amp; Demand for Records</p>
<p>Nancy O's Restaurant Group Inc. 1261 Third Avenue Prince George, BC, V2L 3E6</p> <p> RN 434 085 301 CA</p>	
<p>Garrett<sup>s.22</sup> Fedorkiw (Director) Nancy O's Restaurant Group Inc. 1261 Third Avenue Prince George, BC, V2L 3E6</p> <p> RN 434 085 292 CA</p>	
<p>Eoin<sup>s.22</sup> Foley (Director) Nancy O's Restaurant Group Inc. 1261 Third Avenue Prince George, BC, V2L 3E6</p> <p> RN 434 085 289 CA</p>	<p>↓</p>

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**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903


- |   |   |                                 |
|---|---|---------------------------------|
| <input type="checkbox"/> Hearing Notice           | <input type="checkbox"/> Demand for Records   | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Fact Sheets              | <input type="checkbox"/> Letter               |                                 |
| <input checked="" type="checkbox"/> Determination | <input type="checkbox"/> Settlement Agreement |                                 |


s.22	RN 097 629 159 CA	
s.22	RN 097 629 176 CA	
s.22	RN 097 629 162 CA	
s.22	RN 097 628 255 CA	
s.22	RN 097 628 269 CA	

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**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903

- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement


Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6  RN 097 629 009 CA

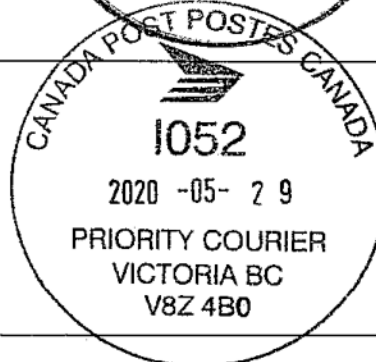
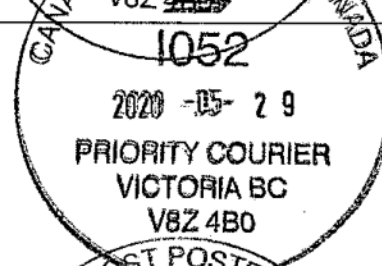
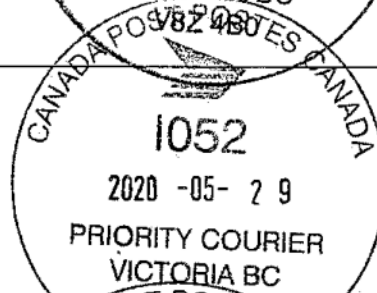
c/o Registered and Records Office  
Nancy O's Restaurant Group Inc.  
1209 Fourth Avenue  
Prince George, BC V2L 3J5  RN 097 629 012 CA

Garrett<sup>s.22</sup> Fedorkiw (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6  RN 097 629 026 CA

Eoin<sup>s.22</sup> Foley (Director)  
Nancy O's Restaurant Group Inc.  
1261 Third Avenue  
Prince George, BC V2L 3E6  RN 097 629 030 CA

s.22

 RN 097 629 043 CA



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REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903

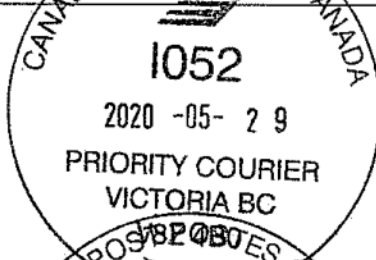

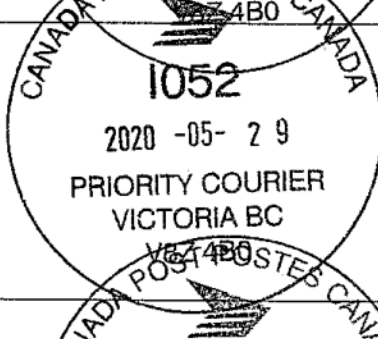
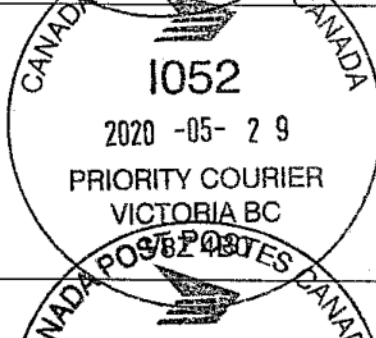
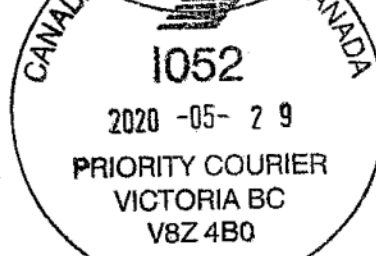
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☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

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s.22	RN 097 628 374 CA	
s.22	RN 097 628 365 CA	

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REGISTERED MAIL TRACE SHEET

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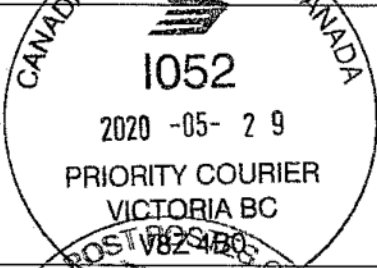








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s.22	RN 097 628 414 CA	
s.22	RN 097 628 405 CA	
s.22	RN 097 628 431 CA	

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REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
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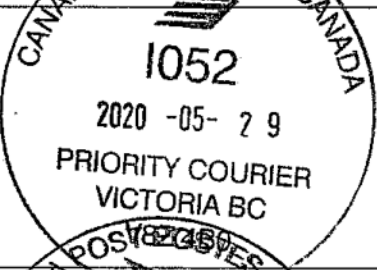

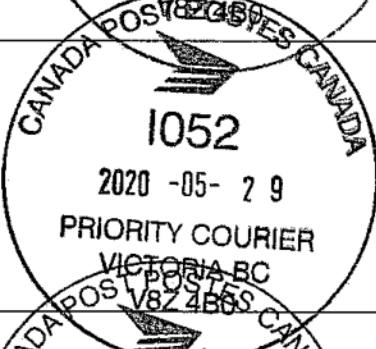



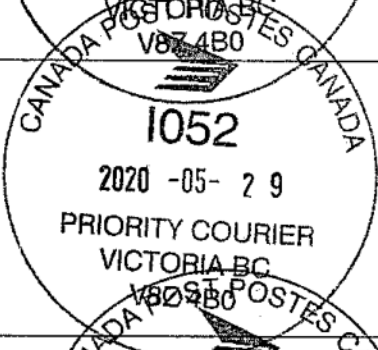


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s.22	 RN 097 628 238 CA	



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**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903






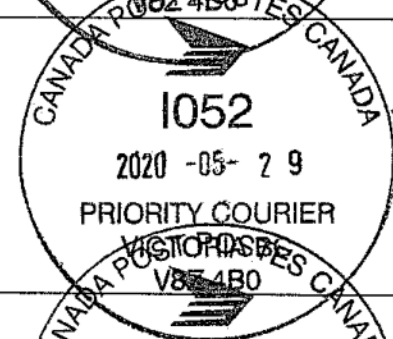

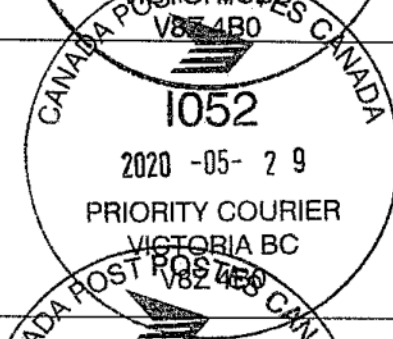


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s.22	 RN 097 628 286 CA	
s.22	 RN 097 628 312 CA	

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REGISTERED MAIL TRACE SHEET

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903


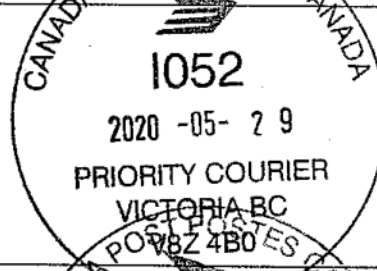

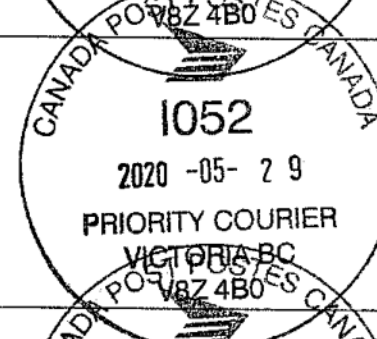

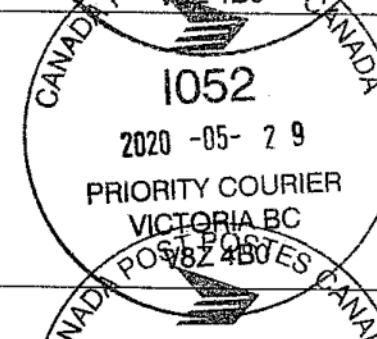

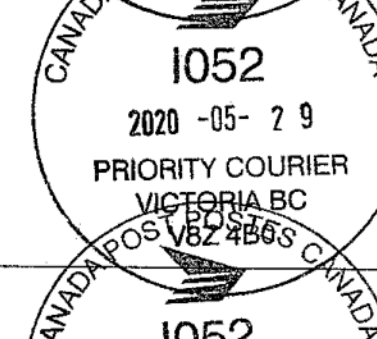

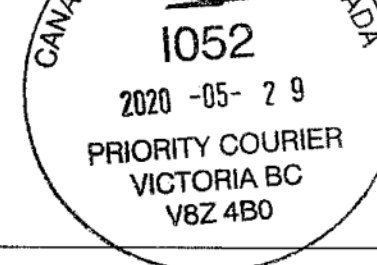
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s.22	 RN 097 629 131 CA	
s.22	 RN 097 629 145 CA	

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**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903

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s.22	 RN 097 629 074 CA	
s.22	 RN 097 629 088 CA	
s.22	 RN 097 629 091 CA	

# REGISTERED MAIL of TRACE SHEET

## MINISTRY OF LABOUR

BRANCH: Employment Standards Branch  
Lower Mainland Region


ADDRESS: #250 – 4600 Jacombs Road  
Richmond, BC V6V 3B1

TELEPHONE: (604) 660-4946  
FAX: (604) 713-0450

Name of officer: Nikolina Lolic

Date: June 25 / 2020

s.22


 RN 477 514 847 CA


Returned CDET being  
mailed to correct  
address

**Page 150 of 169**  
**REGISTERED MAIL TRACE SHEET**


Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903


- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

Nancy O's Restaurant Group Inc.  
 1261 Third Avenue  
 Prince George, BC V2L 3E6  RN 097 629 009 CA

c/o Registered and Records Office  
 Nancy O's Restaurant Group Inc.  
 1209 Fourth Avenue  
 Prince George, BC V2L 3J5  RN 097 629 012 CA

Garrett<sup>s.22</sup> Fedorkiw (Director)  
 Nancy O's Restaurant Group Inc.  
 1261 Third Avenue  
 Prince George, BC V2L 3E6  RN 097 629 026 CA

Eoin<sup>s.22</sup> Foley (Director)  
 Nancy O's Restaurant Group Inc.  
 1261 Third Avenue  
 Prince George, BC V2L 3E6  RN 097 629 030 CA

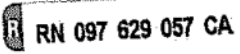

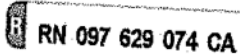
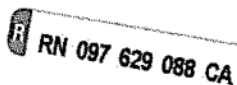
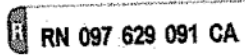
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**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903

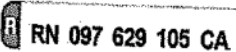
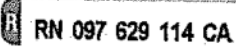
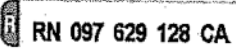

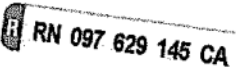
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| <input type="checkbox"/> Fact Sheets              | <input type="checkbox"/> Letter               |                                 |
| <input checked="" type="checkbox"/> Determination | <input type="checkbox"/> Settlement Agreement |                                 |

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**Page 152 of 169**  
**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
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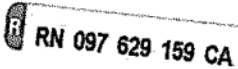

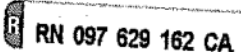
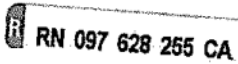
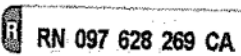
- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

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**Page 153 of 169**  
**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
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**Page 154 of 169**  
**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
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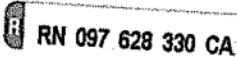
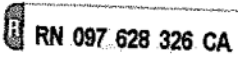
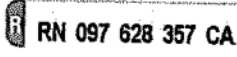

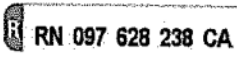
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☒ Determination      ☐ Settlement Agreement

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s.22	RN 097 629 180 CA
s.22	RN 097 629 193 CA
s.22	RN 097 628 286 CA
s.22	RN 097 628 312 CA

**Page 155 of 169**  
**REGISTERED MAIL TRACE SHEET**

Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
Issuing Officer: Nikolina Lalic Employer #: 413540 Employer Name: Nancy O's Restaurant Group Inc.	Date: May 29, 2020 Mailed by: Data Integrity Team Telephone no: 250-740-1903

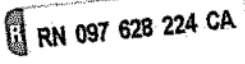
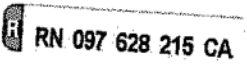
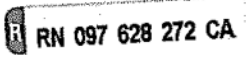
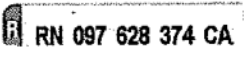
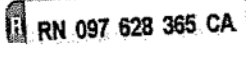
- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

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**Page 156 of 169**  
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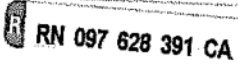
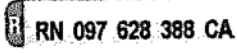
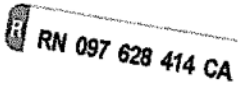
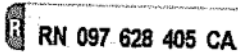

- ☐ Hearing Notice      ☐ Demand for Records      ☐ Other:  
☐ Fact Sheets      ☐ Letter  
☒ Determination      ☐ Settlement Agreement

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**Page 157 of 169**  
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Ministry of Labour Employment Standards Branch	200-880 Douglas Street Victoria, BC V8W 9K1
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MINISTRY OF LABOUR  
JUN 08 2020  
Office of the Director  
Employment Standards Branch

|||  
NO ED / UNKNOWN // DEMENAGE OU INCONNU  
RETURN TO SENDER  
REVOI A L'EXPEDITEUR  
V8W 9K1  
|||





Ministry of Labour  
Office of the Director  
Employment Standards Branch

Mailing Address:  
PO Box 9570 Stn Prov Govt  
Victoria BC V8W 9K1



MOVED!

s.22

s.22

**Return to Sender**  
**Renvoi à l'expéditeur**

This item is being returned because:  
Envoi retourné pour la raison suivante :

Unclaimed	<input type="checkbox"/>	Non réclamé
No such Address	<input type="checkbox"/>	Adresse inexistante
Address Incomplete	<input type="checkbox"/>	Adresse incomplète
Moved/Unknown	<input checked="" type="checkbox"/>	Déménagé/Inconnu
No such Post Office	<input type="checkbox"/>	Bureau inexistant
Refused	<input type="checkbox"/>	Refusé

Amount Due / Montant dû: \$  
33-086-648 (08-04)

Initials / Initiales:

**REGISTERED RECOMMANDÉ**

CPC Tracking Number / Numéro de repérage de la SCP  
RN 097 628 224 CA

33-086-504 (14-05) Sender warrants that this shipment does not contain dangerous goods. / L'expéditeur garantit que cet envoi ne contient pas de matières dangereuses.

☒ Signature Required / Signature requise

RTS

*[Handwritten signature]*

MINISTRY OF LABOUR

RN 097 628 224 CA

JUN 19 2020

Office of the Director  
Employment Standards Branch



Mailing Address:  
PO Box 9570 Stn Prov Govt  
Victoria BC V8W 9K1

**Return to Sender**  
**Renvoi à l'expéditeur**

This item is being returned because:      Envoi retourné pour la raison suivante

Unclaimed ☐      Non réclamé ☐

No such Address ☒      Adresse inexistante ☐

Address incomplete ☐      Adresse incomplète ☐

Moved/Unknown ☐      Déménagé / Inconnu ☐

No such Office ☐      Bureau inexistant ☐

Refusé ☐

Montant dû ☐      Montant à payer ☐

CANADA POST



BRITISH  
COLUMBIA

Proof of  
Delivery

Driver: \_\_\_\_\_

Batch: 439890

Items: 1

Created: 2020.06.04

PM

BC Mail Plus

To: 32271

EMPLOYMENT STANDARDS BR - VICTORIA  
LABOUR PROGRAMS DIVISION  
LABOUR  
200-880 DOUGLAS ST  
PO Box 9570 STN PROV GOVT  
VICTORIA BC V8W 9K1

From:

BC MAIL PLUS - VICTORIA  
1150 MCKENZIE AVENUE  
PO Box 9453 STN PROV GOVT  
VICTORIA BC V8W 9V7

Type

Item

PRCOUR

RN097628374CA

Type

Item



Customer Copy



Ministry of Labour  
Office of the Director  
Employment Standards Branch

Mailing Address:  
PO Box 9570 Stn Prov Govt  
Victoria BC V8W 9K1



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NSA



**Return to Sender**  
**Renvoi à l'expéditeur**

This item is being returned because:  
Envoi retourné pour la raison suivante :

Unclaimed	<input type="checkbox"/> Non réclamé
No such Address	<input checked="" type="checkbox"/> Adresse inexistante
Address Incomplete	<input type="checkbox"/> Adresse incomplète
Moved/Unknown	<input type="checkbox"/> Déménagé / Inconnu
No such Post Office	<input type="checkbox"/> Bureau inexistant
Refused	<input type="checkbox"/> Refusé

Amount Due / Montant dû: \$ \_\_\_\_\_

Initials / Initiales: \_\_\_\_\_

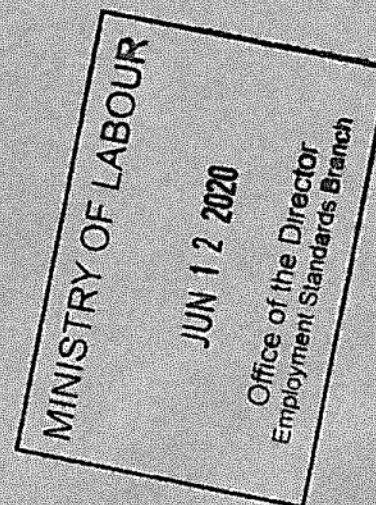
33-086-648 (08-04)

Non



MOVED

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PG 547 098 978 CA



MINISTRY OF LABOUR

\$ 11996.29

JUN 09 2020

# 340003219

Office of the Director  
Employment Standards Branch

PG 547 098 978 CA



REGIONAL  
RÉGIONAL



1

Envelope  
Format standard 260 x 159 mm  
Maximum weight - 500 g  
Maximum thickness - 15 mm

Enveloppe  
Format standard 260 x 159 mm  
Poids maximal - 500 g  
Épaisseur maximale - 15 mm

How to use prepaid envelopes  
1) Fill in the receiver's address and your address where specified and retain your copy.  
2) Deposit in a street letter box, post office or designated Canada Post facility.  
Review Terms and Conditions on Customer Receipt.

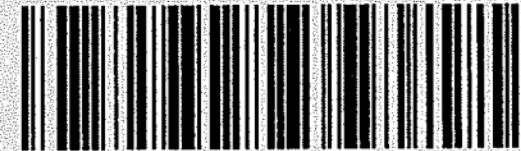
Comment utiliser les enveloppes prépayées  
1) Indiquez l'adresse du destinataire et votre adresse à l'endroit spécifié et conservez votre copie.  
2) Déposez dans une boîte aux lettres publiques, à un bureau de poste ou à une installation désignée de Postes Canada.  
Reportez-vous aux conditions sur le reçu du client.

Xpresspost<sup>TM/MC</sup>

To / À :

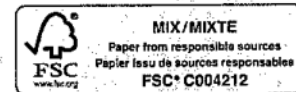


From / De :



TRACKING NUMBER PG 547 098 978 CA N° DE RÉFÉRENCE

Signature on delivery?  
Purchase and apply signature sticker here.  
Signature à la livraison?  
Achetez l'autocollant de signature et apposez-le ici.



142200

1121  
10 19 2  
9 8 7 5 4  
(18-01)

33-086-673 (18-01)

Sender warrants that this item does not contain non-mailable matter. L'expéditeur garantit que cet envoi ne contient pas d'objets inadmissibles.

100% Recycled Paper / 100% Papier recyclé

### Document Summary

<b>Head Office No:</b>	114109	<b>Employer Number:</b>	413540
<b>Office:</b>	Compliance Team	<b>Employer Name:</b>	Nancy O's Restaurant Group Inc.
<b>Document #:</b>	CDET165151	<b>Delegate:</b>	Nikolina Lalic

### Contravention Summary

Act/Reg.	Section	Contrav. Date	Work Location	Penalty Amount
A21	21 Unauthorized deduction from wages	2020/01/22	1261 Third Ave Prince George, BC V2L 3E6	\$ 500.00
A30.3	30(3) Gratuitites	2020/01/22	1261 Third Ave Prince George, BC V2L 3E6	\$ 500.00
A16	16 Pay minimum wage	2020/01/09	1261 Third Ave Prince George, BC V2L 3E6	\$ 500.00

**Total Document Penalty Amount: \$ 1,500.00**

### Financial Transaction Summary

<b>Receipt Transaction ID:</b>	354086	<b>Outstanding Document Penalty Balance:</b>	\$ 1,500.00
<b>Receipt Status:</b>	Suspend (Expiry)	<b>Receipt Amount:</b>	\$ 1,500.00
<b>Deposit Date:</b>	2020/06/09	<b>Balance Due:</b>	\$ 0.00

**Comment:** Bank Draft received in the amount of \$11,996.29, out of which \$1,500.00 applied to Penalties and \$10,496.29 applied to Entitlement Amount.  
Appeal Expiry Date: 6/July/2020

#### Disbursement Summary

<b>Head Office File No:</b>	114109	<b>ER#:</b>	413540	<b>Deposit Date:</b>	2020/06/09
<b>Delegate:</b>	Nikolina Lalic	<b>Employer:</b>	Nancy O's Restaurant Group Inc.	<b>Cheque Date:</b>	2020/07/15
<b>Txn. ID:</b>	354049				

#### Disbursement Details

#### Disb. Txn. ID

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