

**STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU**

**IN THE MATTER OF THE WAGE CLAIM     ) Case No. 2337-2003**  
**OF CHARLES E. LONG,                     )**

**Claimant,**                     )

**vs.**                     )

**FINDINGS OF FACT;  
CONCLUSIONS OF LAW;  
AND ORDER**

**MICHAEL SEGOTA AND JANICE SATTLER )**  
**d/b/a AIR BOWL LANES, d/b/a WHITLOCK'S )**  
**STILLWATER STEAKHOUSE,             )**  
**Respondent.                             )**

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**I. INTRODUCTION**

Respondents Michael Segota and Janice Sattler appeal a redetermination by the Wage and Hour Unit that found they owed additional wages to claimant Charles Long. The Wages and Hour Unit determined that Segota and Sattler owed Long \$1,071.20 in wages plus statutory penalty.

On August 2, 2004, Hearing Examiner Gregory L. Hanchett held an in-person contested case hearing in this matter. Long represented himself and testified under oath. James Healow, attorney at law, represented Segota and Sattler. Both Segota and Sattler testified under oath. The parties stipulated to the admission of Documents 1 through 122. Based on the evidence and argument adduced at the hearing, the following findings of fact, conclusions of law, and final order are made.

**II. ISSUE**

Is Long owed additional wages for his work in December, 2002, and penalty as provided by law?

**III. FINDINGS OF FACT**

1. At the times pertinent to this matter, Segota and Sattler leased a restaurant and bowling alley known as Whitlock's Stillwater Steakhouse and Air Bowl Lanes located in Columbus, Montana. The building also contained a casino. At the time in question in this matter, Chester and June Moran owned the buildings.

2. In December, 2002, the building was in need of a great deal of cleaning and remodeling. At that time, Segota asked Long to work for him and help him to remodel the building. Segota, Sattler and Long agreed that Long would go to Columbus and assist in the remodeling. Segota and Sattler agreed to pay Long \$10.00 for his work. Segota told Long to keep track of his hours. Neither Segota or Sattler kept any records regarding the amount of time that Long worked.

3. As agreed, Long went to Columbus and started his work on the building on December 14, 2002. Long worked the following hours on the following days:

December 14, 2002--9 hours	December 23, 2002--12 hours
December 15, 2002--13 hours	December 24, 2002--2 hours
December 16, 2002--11 hours	December 25, 2002--0 hours
December 17, 2002--12 hours	December 26, 2002--8 hours
December 18, 2002--17 hours	December 27, 2002--12 hours
December 19, 2002--14 hours	December 28, 2002--12 hours
December 20, 2002--12 hours	December 29, 2002--6 hours
December 21, 2002--12 hours	December 30, 2002--8 hours
December 22, 2002--13 hours	December 31, 2002--11 hours
	TOTAL HOURS-----184 hours

4. Long spent approximately 50% of his hours completing work for Segota and Sattler in and around the restaurant and bowling alley. The other 50% of his hours were spent working for the Morans.

5. As agreed, Segota and Sattler provided a room for Long during the month of December by permitting Long to stay in the basement of Segota's home.

6. Segota and Sattler did not pay Long for the work he performed with respect to their agreement despite the fact that he completed the work directed by Segota.

7. On December 27, 2002, Long entered into an agreement with Chester and June Moran whereby Long agreed to become the bar manager. The terms of the contract indicate that it would begin on January 1, 2003 and that Long would be paid \$3,000.00 per month.

#### **IV. OPINION<sup>(1)</sup>**

##### *A. Segota and Sattler Owe Long Additional Wages*

Montana law requires that employers pay employees wages when due in accordance with the employment agreement, and in any event not more than 15 days following the separation from employment. Mont. Code Ann. §§ 39-3-204 and 39-3-205. Except to set a minimum wage, the law does not set the amount of wages to be paid. That determination is left to the agreement between the parties. "Wages" include any money due from an employer to an employee. Mont. Code Ann. § 39-3-201(6).

An "employer" is defined by statute as an individual or organization "acting directly or indirectly in the interest of an employer in relation to an employee . . . ." Mont. Code Ann. § 39-3-201(5).

The respondents contend that they did not employ Long during December, 2002, but rather the Morans did. At the hearing, however, Segota testified that he and Sattler hired Long and that Long "worked for us." Segota and Sattler, moreover, had a leasehold interest in the restaurant and the bowling alley during that time. This evidence establishes that no matter what arrangement Long had with the Morans, Segota and Sattler acting on their own behalf and in their own interests engaged Long in an employment agreement from December 14, 2002 until

December 31, 2002. Segota and Sattler were thus employers for purposes of Mont. Code Ann. § 39-3-201(5). Segota's and Sattler's testimony also establishes that they agreed to pay Long \$10.00 per hour for each hour of his work.

Long's testimony establishes that Segota and Sattler provided room for Long as agreed.

Long's testimony also establishes that Segota and Sattler did not pay him for work he completed during the time period of December 14 to December 31, 2002. The testimony further establishes that Long spent approximately 50% of his time working in the restaurant and bowling alley for Segota and Sattler. During this time period, he spent a total of 184 hours working on the building, with approximately 50% of that time being devoted to his agreement with Segota and Sattler. Segota and Sattler thus owe Long for 92 hours of work for which he has not been paid. This amounts to unpaid wages of \$920.00 (92 hours x \$10.00 per hour).

#### *B. Segota and Sattler Owe a Penalty For Failure To Pay Long His Wages.*

Montana law assesses a penalty when an employer fails to pay wages when they are due. Mont. Code Ann. §39-3-206. For claims involving compensation other than minimum wage and overtime compensation, a penalty of 55% must be imposed. Admin. R. Mont. 24.16.7566. Applying this regulation, Segota and Sattler owe penalty in the amount of \$506.00 ( $\$920.00 \times 55\% = \$506.00$ ) for the wages Long is due.

## **V. CONCLUSIONS OF LAW**

1. The State of Montana and the Commissioner of the Department of Labor and Industry have jurisdiction over this complaint. Mont. Code Ann. § 39-3-201 et seq. *State v. Holman Aviation* (1978), 176 Mont. 31, 575 P.2d 925.

2. Segota and Sattler entered into an employment contract for Long's services and agreed to reimburse Long at a rate of \$10.00 per hour.

3. Segota and Sattler owe Long \$920.00 in unpaid wages, representing 92 hours of work between December 14, 2002 and December 31, 2002.

4. Segota and Sattler owe Long a 55% penalty in the amount of \$506.00.

## VI. ORDER

Michael Segota and Janice Sattler, d.b.a. Air Bowl Lanes, d.b.a. Whitlock's Stillwater Steakhouse are hereby ORDERED to tender a cashier's check or money order in the amount of \$1,426.00, representing \$920.00 in wages and \$506.00 in penalty, payable to Charles Long, and mailed to the Employment Relations Division, P.O. Box 6518, Helena, Montana 59624-6518, no later than 30 days after service of this decision.

DATED this 3rd day of September, 2004.

DEPARTMENT OF LABOR & INDUSTRY  
HEARINGS BUREAU

By: /s/ GREGORY L. HANCHETT

GREGORY L. HANCHETT  
Hearing Officer

NOTICE: You are entitled to judicial review of this final agency decision in accordance with Mont. Code Ann. § 39-3-216(4), by filing a petition for judicial review in an appropriate district court within 30 days of service of the decision. See also Mont. Code Ann. § 2-4-702.

If there is no appeal filed and no payment is made pursuant to this Order, the Commissioner of the Department of Labor and Industry will apply to the District Court for a judgment to enforce this Order pursuant to Mont. Code Ann. § 39-3-212. Such an application is not a review of the validity of this Order.

1. Statements of fact in this opinion are hereby incorporated by reference to supplement the findings of fact. *Coffman v. Niece* (1940), 110 Mont. 541, 105 P.2d 661.