

STATE OF MONTANA  
DEPARTMENT OF LABOR AND INDUSTRY  
HEARINGS BUREAU

IN THE MATTER OF THE WAGE CLAIM )	Case No. 290-2010
OF GORDON E. CHRISTIANSON, )	
)	
Claimant, )	
)	
vs. )	<b>ORDER DISMISSING APPEAL</b>
)	<b>AND AFFIRMING WAGE AND</b>
)	<b>HOOR DETERMINATION</b>
)	
INLAND PROPERTIES, INCORPORATED, )	
a Nevada corporation registered with the )	
Secretary of State, d/b/a Yaak River Lodge, )	
)	
Respondent. )	

\* \* \* \* \*

**I. INTRODUCTION**

On December 10, 2009, the Wage and Hour Unit of the Employment Relations Division of the Department issued a redetermination that found Inland Properties, Inc., d/b/a Yaak River Lodge owed Christianson \$6,610.20 in unpaid wages.

On December 28, 2009, the Department received Inland's appeal and on January 13, 2010, transferred the case to the Hearings Bureau for a contested case hearing. The Hearings Bureau issued a Notice of Hearing on January 14, 2010. In that notice, Inland was informed that if it failed to appear at the hearing, its appeal would be dismissed and that an order affirming the Department's determination would be issued. The Notice of Hearing also informed Inland that it had to be represented by an attorney.

On February 17, 2010, a scheduling conference was held. Inland, through John D. Runkle, Director, failed to appear at the scheduling conference despite the Bureau's efforts to accommodate Runkle's schedule in Australia. At the conference, a hearing date of May 18, 2010 was set for Libby, Montana, a time when Runkle was

supposed to be in the state. A final pre-hearing conference was scheduled for May 11, 2010 at 2:00 p.m., MDT.

The scheduling order in this matter also required the parties to file and exchange requests for relief, final contentions, lists of exhibits and witnesses, requests for subpoenas, and stipulated facts no later than May 7, 2010. Inland did not file or exchange any of this information. The scheduling order again informed Inland that if it failed to appear at the hearing, its appeal would be dismissed and that an order affirming the Department's determination would be issued.

At the May 11, 2010 final pre-hearing conference, Runkle was present from the Yaak River Lodge. He stated that he had no witnesses and no exhibits and that he would just make an argument.

Runkle gave no absolute indication that he would be leaving for Australia before the hearing which was to be held in less than seven days.

On May 17, 2010, the Hearings Bureau received a letter via telefax from Runkle, who was, at the time the fax was sent, back in Australia. The letter stated "I am writing to inform you that I am *apparently* unable to attend the hearing scheduled for May 18<sup>th</sup> on behalf of Inland Properties, the legal cost would outweigh any benefits by having to hire legal counsel. Therefore, no representative of Inland Properties will be available for the hearing on May 18<sup>th</sup>" (emphasis added). Runkle's letter then went on to assert that Christianson was an independent contractor – a contention which was not previously asserted. Runkle did not send the letter to Christianson.

## II. CONCLUSIONS OF LAW

1. The Hearings Bureau for the State of Montana's Department of Labor and Industry has jurisdiction over this case.

2. At all times relevant to these proceedings, Inland was and is engaged in interstate commerce, and therefore, the Fair Labor Standards Act ("FLSA"), not state law, applies to and governs the determination of the issues in this matter.

3. Inland by failing to appear at the hearing of its appeal has failed to prove that Christianson is not owed wages as determined by the Wage and Hour Unit.

### III. ORDER

The appeal of Inland Properties, Inc., d/b/a Yaak River Lodge (Case No. 290-2010) is dismissed and the redetermination of the Wage and Hour Unit is affirmed. Inland Properties, Inc., d/b/a Yaak River Lodge IS HEREBY ORDERED to tender a cashier's check or money order in the amount of \$6,610.20, payable to the claimant, Gordon Christianson, and delivered to the Wage and Hour Unit, Employment Relations Division, P.O. Box 201503, Helena, Montana 59620-1503, no later than June 18, 2010. Inland Properties, Inc. may deduct applicable withholding taxes.

DATED this 19th day of May, 2010.

DEPARTMENT OF LABOR & INDUSTRY  
HEARINGS BUREAU

By: /s/ DAVID A. SCRIMM  
DAVID A. SCRIMM  
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.