



e2r Alert!

Is it work or just watching work?

Best to get it right from the start!

A recent decision under the Alberta *Employment Standards Code*, *1611827 Alberta Inc. v. Shrestha*, highlights the importance of understanding how “work” is very broadly defined under employment standards legislation.

In the summer of 2019, a worker immigrated to Canada and was struggling to find work in Alberta. After being connected with a pizzeria, the owner decided to take on the worker but later claimed she was not hired to perform work, but simply to be trained or to observe the work in the pizzeria.

The worker believed she was hired at a rate of \$10/hour when she commenced in February 2020. She also believed she would get more hours once she was trained.

In the following months the owner would text her what hours to attend at the pizzeria and asked her to ‘come to work’ in one such text. The worker stated that she did more than observe, that she washed dishes, prepared toppings for the pizza, removed product from the freezer and cleaned tables. She also accompanied the owner’s wife on trips to get supplies for the pizzeria.

Ultimately the pizzeria paid her about \$1000, but when the worker requested her proper wages, the owner claimed the \$1000 was simply a loan (there was no loan documentation of any kind).

The worker filed a claim for unpaid wages including all statutory entitlements to overtime, vacation pay and holiday pay. The Employment Standards Officer determined she had performed work and ordered the employer to pay \$5600.

The employer appealed and the Alberta Labour Relations Board upheld the Officer’s findings.

Takeaway



Occasionally employers will bring on new hires to shadow another employee, take part in a week or two of training, or bring them in on a “trial basis” to see if the employee is a good fit. The employer elects in this situation not to pay the employee as they believe no actual work is being done. This approach, however, will invariably run afoul of employment standards legislation given the broad definition applied to “work”.

If you would like to discuss any of the above in greater detail, we recommend reaching out to speak to an e2r™ Advisor.