

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Brito v. Ecora Engineering & Environmental Ltd.*,
2025 BCSC 2047

Date: 20250904
Docket: S246121
Registry: Vancouver

Between:

Terilyn Brito

Plaintiff

And

**Ecora Engineering & Environmental Ltd. a corporate
amalgamation including Ecora Engineering & Resource Group Ltd.**

Defendant

And

Terilyn Brito

Defendant by Counterclaim

Before: The Honourable Madam Justice Murray

Oral Reasons for Judgment

In Chambers

Appearing as Representative for the
Plaintiff and Defendant by Counterclaim:

R. Pawliuk*

Counsel for the Defendant:

J.D. Wiegele

Place and Dates of Hearing:

Vancouver, B.C.
August 28–29, 2025

Place and Date of Judgment:

Vancouver, B.C.
September 4, 2025

[1] Ms. Brito seeks judgment against the defendant, Ecora Engineering & Environmental Ltd. (Ecora) in the amount of \$46,892.79 constituting unpaid

wages, RRSP contributions, statutory holiday pay and vacation time, plus court ordered interest.

[2] There is urgency to this judgment as the defendant company has been sold. Assets are to be distributed on September 5, 2025. After that date and any judgment Ms. Brito obtains will be empty as Ecora will be a shell company.

[3] Put briefly, Ms. Brito worked as an engineer for the defendant company from February 2021 until she was terminated without cause on October 19, 2023. Her work required her to work long hours out of town on job sites.

[4] Ms. Brito claims that she was authorised by the defendant to work, and be paid, for overtime.

[5] Ecora argues that:

1. Ms. Brito was not entitled to overtime until January 1, 2023;
2. Ms. Brito was paid in full for her overtime. She signed a letter dated November 7, 2023 confirming that this was entirety of her unpaid overtime entitlement;
3. A company audit indicates that Ms. Brito was, after considering underpayments for statutory holidays, accrued vacation entitlement, RRSP contributions, overtime in 2023 and the severance pay (ten weeks as opposed to the eight that she was entitled to) actually overpaid by \$28.75.

[6] By way of counterclaim, Ecora seeks repayment of severance monies paid to Ms. Brito. It alleges that Ms. Brito made inappropriate comments to clients that would have led Ecora to terminate her employment with cause.

ISSUES

[7] The first issue to be decided on this application is whether Ms. Brito was entitled to overtime in 2021 and 2022. If the answer to this is yes then I must go on to consider whether she was underpaid for overtime, statutory holidays, vacation pay and RRSP contributions and if so, in what amount. The final issue is whether Ecora is entitled to repayment of the severance paid to Ms. Brito.

[8] There was no opposition to proceeding with this application by way of summary trial. I find it appropriate. While there are some issues of credibility, I am satisfied that they can be decided on the affidavit evidence.

ISSUE 1: WHETHER MS. BRITO WAS ENTITLED TO OVERTIME PAY

[9] It is not contested that Ms. Brito worked long hours. As a young engineer working in the field, she often worked 12 to 16 hours a day.

[10] Ms. Brito claims that when she was hired she was authorized to work and be paid overtime at the following rates:

1. Time and a half for the first 4 hours worked in excess of 8 and
2. Double time for hours over 12 in a day.

[11] In addition, on statutory holidays she was entitled to time and a half for the first 8 hours and double time after that.

[12] This is corroborated by Parviz Karmali, a Certified Human Resources professional who was employed in executive management at Ecora from August 2021 to January 6, 2023. Ms. Karmali's duties included handling employees' concerns regarding pay. As Ms. Karmali averred in her affidavit, this responsibility required her to be familiar with company policy regarding among other things, pay structure, overtime and benefits.

[13] Ms. Karmali attests that in 2021 and 2022 Ms. Brito was authorized to work and be paid overtime at the rates specified by Ms. Brito. According to Ms. Karmali this overtime was built into the contracts relating to the big projects that Ms. Brito worked on. Ms. Karmali further attests that:

1. Overtime was only entered into the pay system if the employee's hours were approved by their supervisor;
2. Ecora gave the employees that were entitled to overtime a choice of banking the overtime or having it paid out, however Ecora's practice was to bank rather than pay;

3. While she was employed there, Ecora struggled with cash flow issues. Delaying paying employees overtime was one of the strategies the company used to address cash flow problems;
4. During her employment, Ms. Brito worked on two big projects and worked a lot of overtime.

[14] According to Ms. Karmali, in June or July 2022 Ms. Brito expressed concern to her that she had not been paid for overtime. At that point Ms. Brito had worked hundreds of hours of overtime on a major project. To “appease her”, the project manager Cevat Catana, told Ms. Karmali to pay Ms. Brito 90 hours of overtime. Ms. Karmali instructed payroll to do so. The company paid the 90 hours in straight time instead of the time and a half Ms. Brito was entitled to. Ms. Karmali spoke to the entire management team about this issue – Mr. Catana, Dan Bruton, a senior engineer and the project manager on the other big project Ms. Brito worked on and Mike Laws. Ms. Karmali states that they all agreed that Ms. Brito was entitled to be paid time and a half for the overtime hours. Following that meeting, on July 18, 2022, Ms. Karmali sent payroll an email which stated:

We did an OT payment for Teri for 90 hours at x1 for some work for TMX. I have spoken with Laws, Dan and Cevat and the payment should have been done at x 1.5. At the next payroll run, please include this additional x .5 to make up for the shortfall. Thanks.

[15] Dan Bruton, who had been copied into the email, responded “Thanks Parvis”.

[16] This email (the smoking gun as Ms. Pawliuk calls it) is significant to Ms. Brito’s claim for two reasons: it proves that Ms. Brito was entitled to overtime in 2021 and 2022 and it disproves Mr. Bruton’s evidence that Ms. Brito was not entitled to overtime in those years. Given that major inconsistency in Mr. Bruton’s evidence, I approach his evidence with caution.

[17] In addition, I put little weight on the affidavit evidence of Stephanie Marsh who has been the “People lead” for Ecora since February 2023, as her employment started after the period in question. The smoking gun email belies her assertions that any payment for 2021 and 2022 overtime hours was “discretionary and gratuitous”. I will return to this.

[18] As a result of these issues with credibility and reliability, where the evidence of Mr. Bruton and Ms. Marsh conflicts with the evidence of Ms. Brito and Ms. Karmali, I prefer the affidavit evidence of Ms. Brito and Ms. Karmali. The fact that Ms. Brito's overtime hours are logged on her time sheets, the overtime audit and the smoking gun email shows their evidence to be true.

[19] I find that the evidence proves overwhelmingly that Ms. Brito was entitled to overtime during the whole of her employment at Ecora. I further find that she was to be paid overtime at the rate of 1.5 per hour for work between 8 to 12 hours per day and double time for anything worked over 12 hours.

[20] The question then becomes whether there is overtime owing.

ISSUE 2: WHAT OVERTIME IF ANY IS MS. BRITO OWED?

[21] In August 2023, Ms. Marsh undertook a review of overtime worked for all employees including Ms. Brito. Ms. Marsh avers that "at this time, on a discretionary and gratuitous basis we decided to pay Brito at overtime rates for all excess hours worked on projects retroactive to January 1, 2023 – the date the new overtime policy started." She further states that "additionally and on a gratuitous basis", Ecora paid Ms. Brito double-time for hours worked in excess of 12 hours per day.

[22] On November 7, 2023, Ms. Marsh wrote a letter to Ms. Brito which read as follows:

We've reviewed your overtime and double time from Feb 2021 to 2023, Pay Period #22. Our findings show a total of 262.62 hours are still unpaid. These hours will be paid out to you on [sic] once we have received this letter back signed.

By signing this letter, you agree with our findings, the matter is now considered closed.

[23] Ecora argues that by signing that letter Ms. Brito settled her overtime claim with them. I disagree. By signing the letter, Ms. Brito agreed to the calculation of overtime hours. Period. However, Ecora paid the overtime hours at straight time – not at the overtime rate. Ms. Brito's concurrence with the calculation of overtime hours does not disentitle her to pursue the payment that she was promised.

[24] So what is she owed? In her affidavit Ms. Brito provides comprehensive calculations of the amount owing her based on Ecora's calculations of the hours she worked. I accept Ms. Brito's calculations as fair and accurate. Accordingly, I find that Ecora owes Ms. Brito \$40,158.19 in unpaid overtime.

ISSUE 3: WHAT AMOUNT IF ANY IS MS. BRITO OWED FOR STATUTORY HOLIDAYS, VACATION PAY AND RRSP?

[25] As the remaining claims are small I will deal with them together.

[26] The evidence shows that Ecora's record keeping was less than accurate. Ecora agrees that Ms. Brito was underpaid \$61.31 for statutory holidays and \$1267.02 for accrued vacation days. In addition, I find that Ecora owes Ms. Brito \$438 for National Truth and Reconciliation Day, September 30, 2021.

[27] Regarding RRSP contributions, Ecora was obliged to match the 2.5% deducted from Ms. Brito's paycheque and remit it to the trust company for Ms. Brito's benefit.

[28] Ecora says that its payments were remitted late but that nothing is owing. Ms. Brito through detailed calculations demonstrates that despite the late remittances, Ecora still owes \$1,088.77. I accept Ms. Brito's calculations.

ISSUE 4: IS ECORA ENTITLED TO REPAYMENT OF THE SEVERANCE PAY PAID TO MS. BRITO?

[29] In its counterclaim, Ecora alleges that Ms. Brito wrote inappropriate song lyrics and passed them on to clients. Ms. Brito responds that the song lyrics were not written by her – they were written by drillers at the work site. I accept Ms. Brito's explanation that the song lyrics were written by drillers at her work site. The lyrics are about drilling. Further, while some of the language may be colourful, the lyrics were clearly written in fun with no intent to offend anyone. Ecora is not mentioned in any of the lyrics. It is unknown who the lyrics were sent to as Ecora has vetted the recipient's name in its disclosure.

[30] Overall I find this counterclaim to be meritless and made in bad faith. In my view it was intended to deter Ms. Brito from pursuing her claim. This is troubling as allegations such as this can be harmful to a professional's reputation.

[31] As the assertions in the counterclaim are devoid of merit and made in bad faith, I order that Ecora pay punitive damages to Ms. Brito. I will hear from the parties regarding the amount.

CONCLUSION

[32] I make the following orders:

1. Ecora is to pay to Ms. Brito
 - i. \$44,713.30 constituting the amount owing for unpaid overtime, vacation, statutory holidays and RRSP contributions less the severance overpayment,
 - ii. Prejudgment interest in the amount of \$3,689.89, and
 - iii. Costs.

[33] Ecora's counterclaim is dismissed.

[34] Ecora shall pay punitive costs to Ms. Brito. The parties may make written submissions as to the amount.

“The Honourable Madam Justice Murray”