

# Court Upholds ESA Director's Rejection of Averaging Agreement



Mine workers traveling to Yukon had to spend 2 weeks in a Whitehorse hotel self-isolating, for which they were paid regular wages. They then worked at the mine for 28 straight days followed by 6 weeks off. The miners consented to an averaging agreement to ensure that the 6-weeks-on, 6-weeks-off rotation complied with Yukon ESA requirements. But the Director of Employment Standards rejected the arrangement, reasoning that 12 weeks was too long for an averaging agreement to last. The employer appealed, claiming that while the term of the averaging agreement was 12 weeks, it provided only for 6 weeks of work. But the Yukon court said the Director's interpretation was reasonable and tossed the appeal [[The Director of Employment Standards v Employment Standards Board](#), 2021 YKSC 28 (CanLII), May 20, 2021].