

EMPLOYMENT**California Labor Code****Building manager claimed pay was less than minimum wage****VERDICT** **\$170,000****CASE** Dal B. Gurung v. Shelia Tsang and Bonnie Tsang, No. CGC-06-452511**COURT** Superior Court of San Francisco County, San Francisco, CA**JUDGE** Thomas J. Mellon**DATE** 11/5/2007**PLAINTIFF ATTORNEY(S)** Aaron P. Minnis, Mattingly & Minnis LLP, San Francisco, CA**DEFENSE ATTORNEY(S)** Margaret J. Grover, Haight, Brown & Bonesteel, LLP, San Francisco, CA**FACTS & ALLEGATIONS** In May 2006, plaintiff Dal B. Gurung, 51, the live-in manager of a 24-unit residential building, was laid off from his managing job, which he had held for 12 years.

As the manager, Gurung had been paid \$350 per month and was given free use of a studio apartment, in which he lived with his wife and daughter.

Gurung sued Shelia Tsang and Bonnie Tsang, claiming that the Tsangs had failed to pay him a minimum wage. He alleged violations of California Labor Code section 1194, the San Francisco Minimum Wage Ordinance and the Unfair Business Practices Act.

Gurung maintained he worked full-time performing various resident manager duties and remained on call to respond to tenant issues.

Shelia and Bonnie Tsang, the purported owners of the building, did not keep records of the hours Gurung worked. They contended that \$350 a month plus credit for the unit was sufficient to compensate Gurung.

INJURIES/DAMAGES Gurung claimed he was still owed wages from his employment by the Tsangs. He sought damages for his unpaid wages covering the last four years.

Defense counsel contended that the statute of limitations was three years, not four, so in any case, Gurung could only seek lost wages going back three years.

RESULT The jury found in favor of Gurung, awarding him \$33,670 in unpaid wages, covering the four years of his employment prior to the filing of the lawsuit. The jury also found that Shelia Tsang was not entitled to a credit toward payment of the minimum wage for Gurung's use of the unit, because it was not adequate, decent or sanitary. The jury found in favor of defendant Bonnie Tsang, as she had never been an owner of the building.

DEMAND \$150,000
OFFER \$5,000

TRIAL DETAILS Trial Length: 8 days
 Trial Deliberations: 4 hours
 Jury Vote: 10-2
 Jury Composition: 7 male; 5 female

PLAINTIFF EXPERT(S) Jeff Petersen, Ph.D., economics, San Francisco, CA

DEFENSE EXPERT(S) James Claus, property management, San Jose, CA
 Jane Nettesheim, economics, San Francisco, CA

POST-TRIAL Judge Thomas J. Mellon awarded Gurung \$11,686 in interest; double damages; attorney's fees; and costs of suit. The parties then settled for \$170,000 prior to the entry of judgment.