

**EMPLOYMENT STANDARDS TRIBUNAL**  
In the matter of an appeal pursuant to Section 112 of the  
*Employment Standards Act R.S.BC 1996, C. 113*

- by -

492441 BC Ltd. operating as Movies Movies  
("492441 BC Ltd")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Hans Suhr

**FILE NO.:** 97/813

**DATE OF DECISION:** January 6, 1998

## DECISION

### OVERVIEW

This is an appeal by 492441 BC Ltd. operating as Movies Movies (“492441 BC Ltd.”), under Section 112 of the *Employment Standards Act* (the “Act”), against a Determination dated October 31, 1997 issued by a delegate of the Director of Employment Standards (the “Director”). 492441 BC Ltd alleges that the Director erred in its Determination because the business was sold to Kantonen, Nerada Inc. (“KNI”) prior to the termination of the employees.

### ISSUES TO BE DECIDED

The issues to be decided in this appeal are as follows:

1. Is vacation pay owing to the three employees: Sharokh Naderi (“Naderi”), Farshid Kazemi (“Kazemi”), and Mahmoud Mazhari (“Mazhari”) ? If so, what is the correct amount owing.
2. Is compensation for length of service owing to Naderi, Kazemi, and Mazhari? If so, what is the correct amount owing.
3. If the answer to the above issues are yes, is 492441 BC Ltd responsible for this liability?

### FACTS

Naderi, Kazemi, and Mazhari worked for 492441 BC Ltd from March 1995 until February 16, 1997.

Naderi, Kazemi, and Mazhari were terminated by an officer/director of 492441 BC Ltd on February 16, 1997.

Mr. Hooshang (Shawn) Kasiri resigned as director and officer of 492441 BC Ltd operating as Movies Movies on February 17, 1997 as stated in a document entitled, “RESIGNATION OF DIRECTORS and CONSENT TO APPOINTMENT” which is signed by Hooshang Kasiri (“Kasiri”).

Kasiri sold his shares of 492441 BC Ltd to Calvin Kantonen (“Kantonen”) of Kantonen, Nerada Inc. on February 17, 1997.

Kantonen was appointed president and director of 492441 BC Ltd effective February 17, 1997.

Naderi, Kazemi, and Mazhari filed a complaint with the Director on March 11, 1997.

The Director issued a Determination on October 31, 1997 against 492441 BC Ltd operating as Movies Movies for the sum of \$3,344.76.

**ANALYSIS**

The appellants does not dispute that wages are owing to the three employees in the amount as calculated by the Director. The only point of dispute is who is responsible for the liability. The appellants argues that the purchaser is liable for the wages determined to be owing.

The evidence provided reveals that Naderi, Kazemi, and Mazhari were terminated on February 16, 1997 by the employer, 492441 BC Ltd.

The Determination was issued against 492441 BC Ltd operating as Movies Movies. The matter of who was actually a director at the time of the terminations in question is not relevant to this Decision due to the fact that the Determination is against the corporate entity and not against the directors/officers. In any event, the Registrar of Companies search indicates that as of November 26, 1997, 492441 BC Ltd. was still active and the list of directors/officers were: Hooshang Kasiri, Ardeshir Taghvaei, and Mehran Taghvai.

The plain facts of the case at hand are that on the date the three employees were terminated, February 16, 1997, 492441 BC Ltd. was the employer.

There was no evidence provided to indicate that the three employees had ever performed any work for the purchaser.

For all of the above reasons, I conclude that 492441 BC Ltd. was the employer at the time of the terminations and therefore owes the wages in the amount as calculated by the delegate of the Director and set forth in the Determination.

The appeal is therefore dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination dated October 31, 1997 be confirmed in the amount of \$3,344.76 together with whatever further interest that may have accrued, pursuant to Section 88 of the *Act*, since the date of issuance.

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**Hans Suhr**  
**Adjudicator**  
**Employment Standards Tribunal**