

An appeal

- by -

Kunal Rathour, a Director and Officer of Della Casa Hospitality Inc.
(“Appellant”)

- of a Determination issued by -

The Director of Employment Standards
(the “Director”)

pursuant to Section 112 of the
Employment Standards Act R.S.B.C. 1996, C.113 (as amended)

TRIBUNAL MEMBER: Rajiv K. Gandhi

FILE No.: 2016A/137

DATE OF DECISION: February 27, 2017

DECISION

SUBMISSIONS

Roger Mpania

counsel for Kunal Rathour, a Director and Officer of Della Casa Hospitality Inc.

OVERVIEW

1. On July 15, 2016, the Director of Employment Standards (the “Director”) issued a determination (the “Corporate Determination”) according to section 79 of the *Employment Standards Act* (the “Act”) in which Della Casa Hospitality Inc. (the “Company”) was found to owe the complainant, Sadaf Jabarkhel (the “Complainant”), wages, statutory holiday pay, and vacation pay, in the aggregate amount of \$4,058.68, together with interest calculated according to section 88 of the *Act*. The Appellant was also ordered to repay the sum of \$86.24 to the Complainant, originally deducted from wages contrary to section 21 of the *Act*, and to pay \$2,000.00 in administrative penalties for breaches of sections 17, 18, 21, and 28 of the *Act*.
2. The Director then issued a second determination (the “Section 96 Determination”) in respect of which Mr. Rathour (the “Appellant”), as the sole director and officer of the Company, was found to be personally liable to pay the full amount owed under the Corporate Determination, including the sum payable by the Company to the Complainant, and all administrative penalties.
3. The Appellant appeals the Section 96 Determination ostensibly because – it says – the Director both erred in law and failed to observe the principles of natural justice, according to sections 112(1)(a) and 112(1)(b) of the *Act*. However, the Appellant offers no substantive argument in support of either assertion. He seems to say only that the Company is not liable under the Corporate Determination.
4. I suppose his argument is that, if the Company is not liable under the Corporate Determination, neither is the Appellant liable under the Section 96 Determination. That is a logical argument, and it has merit.
5. Unfortunately for the Appellant, the Corporate Determination has now been considered and dismissed (see *Della Casa Hospitality Inc.*, BC EST # D021/17). To the extent that the Company’s liability under the Corporate Determination is settled, the Appellant’s argument in this appeal falls flat.
6. The Appellant offers no other basis upon which I can disturb the Section 96 Determination. As such, I find that this appeal has no reasonable prospect of success.

ORDER

7. Pursuant to section 115 of the *Act*, I confirm the Section 96 Determination issued on July 15, 2016, and I dismiss this appeal pursuant to section 114(1)(f) of the *Act*.

Rajiv K. Gandhi
Member
Employment Standards Tribunal