

EMPLOYMENT STANDARDS TRIBUNAL

In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act S.B.C. 1995, C. 38

- by -

Bandyln Computer Services Inc.
("Computer Services")

- of a Determination issued by -

The Director Of Employment Standards
(The "Director")

ADJUDICATOR: Richard S. Longpre

FILE NO.: 96/478

DATE OF HEARING: December 18, 1996

DATE OF DECISION: January 16, 1997

OVERVIEW

This decision addresses an appeal by Computer Services pursuant to Section 112 of the *Employment Standards Act*. Computer Services seeks review of Determination No. DDET 00359 and DDET 00360.

These Determinations concluded that Phil Pyatt was an employee as defined in the *Act* while he worked at Whistler Language Adventures. Whistler Language Adventures is an operation of Computer Services. Further, the Determinations found that Computer Services, its associated corporate entity Brandyman Training Society (the “Employers”) and its directors Julie Bradley and Timothy Agnew were liable for unpaid wages and vacation pay owed to Phil Pyatt and Robin Reece.

ISSUE TO BE DECIDED

The issue to be decided in this decision is whether Bradley and Agnew are personally liable for the wages and vacation pay owed to Pyatt and Reece.

FACTS

In CDET 003432, the Determination found that the Employers were liable for unpaid wages and vacation pay owed to Pyatt. The total amount was determined to be \$1,086.24.

In CDET 003474, the Determination found that the Employers were liable for unpaid wages and vacation pay owed Reece. The total amount was determined to be \$4,039.73.

In DDET 00360, Bradley was found to be a director of the Employers. Pursuant to Section 96(1) of the *Act*, Bradley was found personally liable for the unpaid wages and vacation pay that were owed to Pyatt and Reece.

Similarly, In DDET 00359, Agnew was also found to be a director of the Employers. Pursuant to Section 96(1) of the *Act*, Agnew was found personally liable for the wages and vacation pay that were owed to Pyatt and Reece.

In BC EST #D017/97, the Tribunal reviewed Computer Services’ appeal of CDET 003432. The Panel confirmed that Pyatt was an employee of Computer Services and was owed \$1,086.24 for unpaid wages and vacation pay.

In BC EST #D016/97, the Tribunal reviewed Computer Services’ appeal of CDET 003474. The Panel varied that Determination and found that Computer Services owed Reece \$2,187.50, net \$1645.57.

ANALYSIS

There is no dispute that Bradley and Agnew were officers or directors of the Employers at the relevant times. The *Act* provides that officers and directors of a company are personally liable for unpaid wages owed by the company. Section 96(1) of the *Act* reads:

96. (1) A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.

The term “wages” in the *Act* includes “ money ... required to be paid by an employer to an employee under this *Act*.” Vacation pay is mandatory under the *Act*. Bradley and Agnew are personally liable for the Employers’ liability of \$1,086.24 to Agnew and the \$2,187.50, net \$1,1645.57 to Reece. It follows that Determinations DDET 00360 and DDET 0359 are confirmed as they apply to the directors’ personal liability.

ORDER

Pursuant to Section 115 of the *Act*, Bradley and Agnew are ordered, as are the Employers, to pay Pyatt \$1,086.24 for unpaid wages and vacation pay and to pay Reece \$2,187.50, net \$1645.57 for unpaid wages and vacation pay.

Richard S. Longpre
Adjudicator
Employment Standards Tribunal,