

An appeal

- by -

Carlos Yong, a Director or Officer of Stratford Internet Technologies Inc.

- 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

ADJUDICATOR: Norma Edelman

FILE No.: 2001/877

DATE OF DECISION: January 21, 2002

DECISION

This matter arises out of a referral back to the Director of Employment Standards (the "Director") in Decision BCEST #D669/01 to establish the liability of Carlos Yong ("Yong"), a Director or Officer of Stratford Internet Technologies Inc. In Decision BCEST #D669/01 the Tribunal made the following order:

Pursuant to Section 115 of the Act, I order that:

1. the Determination dated August 17, 2001 against Yong be confirmed at least to the extent that he was a director or officer at least until March 9, 2001; and
2. he is liable for amounts earned or payable on or before March 9, 2001. I refer the calculation of this liability back to be Director.

On December 19, 2001, the Tribunal received a report from the Director dated December 18, 2001. The Director stated she had adjusted the calculation schedules for the nine former employees of Stratford Internet Technologies Inc. to show the director or officer liability to March 9, 2001 including interest to December 18, 2001. The Director concluded that the total amount of wages owed by Yong was \$26,464.86 including interest to December 18, 2001.

The Tribunal forwarded the Director's report to Yong, his legal counsel and the nine employees on December 27, 2001. They were invited to reply to the report and they were advised that their response should specify their reasons for agreeing or disagreeing with calculations. An information sheet on the referral back process was enclosed with the Tribunal's letter. The information sheet stated that the Tribunal may decide the matter based solely on the written submissions of the parties and that an oral hearing may not necessarily be held and further, that the Determination would either be confirmed, varied, cancelled or referred back to the Director.

The Tribunal did not receive any response to the Director's report.

This matter has been decided based on the written submissions of the Director

I have reviewed the Director's calculations and I find no reason to conclude that they are in error. Accordingly I accept that Yong is owed the amount calculated by the Director in her report dated December 18, 2001.

ORDER

Pursuant to Section 115 of the Act and further to Tribunal Decision BCEST # D669/01, I order that the Determination dated August 17, 2001 be varied to the amount of \$26,464.86, plus any other interest accumulated pursuant to section 88 of the Act since December 18, 2001.

Norma Edelman
Adjudicator
Employment Standards Tribunal