

An appeal

- by -

Al Craft
("Craft")

- 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: David B. Stevenson

FILE No.: 2002/575

DATE OF HEARING: February 4, 2003

DATE OF DECISION: February 18, 2003

DECISION

APPEARANCES:

on behalf of the individual	No one appearing
on behalf of Civil-Tech Services Ltd.	No one appearing

OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Alfred Craft (“Craft”) of a Determination that was issued on August 22, 2002 by a delegate of the Director of Employment Standards (the “Director”). Craft had complained that he was not paid all wages owing to him by his employer, Civil-Tech Services Ltd. The Determination found no credible record of hours worked by Craft, decided the *Act* had not been contravened, ceased investigating and closed the file on the complaint.

In his appeal, Craft alleged the Director had failed to conduct a proper investigation and that the owner, and representative, of Civil-Tech Services Ltd., Wayne Laktin, had lied about having paid

The hearing of this appeal was scheduled to commence at 10:00 am, February 5, 2003 in Kelowna. The hearing notice was issued on January 7, 2001. I am satisfied it was received by Craft. At the time appointed to commence the hearing neither Craft nor any representative of Civil-Tech Services Ltd. were present. On the day before the hearing, Civil-Tech Services Ltd. notified the Tribunal that they had only just received the hearing notice and were not able to personally attend the hearing. Arrangements were made for them to attend the hearing by teleconference. No phone call was received. I delayed commencement of the hearing until 10:30 am, allowing for the possibility that one or both of the parties had been unavoidably delayed. Neither party appeared or called. The hearing was commenced.

ARGUMENT AND ANALYSIS

This appeal is based on a disagreement by Craft with the investigation, and with conclusions made by the Director as a result of that investigation, and on an allegation by Craft that Mr. Laktin lied to the Director during the investigation. The burden in this appeal is on Craft to persuade the Tribunal that the Determination is wrong and that, as a result of the errors, the intervention of the Tribunal - to cancel, vary or refer the Determination back to the Director - is justified. The failure of Craft to appear effectively means he has failed to satisfy his burden and the appeal is dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determination dated August 26, 2002 be confirmed.

David B. Stevenson
Adjudicator
Employment Standards Tribunal