

**EMPLOYMENT STANDARDS TRIBUNAL**

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

- by -

Rachel Nadine Meakes Madu  
(" Madu ")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No:** 1999/711

**DATE OF DECISION:** March 23, 2000

## DECISION

### OVERVIEW

This is an appeal brought by Rachel Nadine Meakes, now known as Rachel Nadine Meakes Madu (“Madu”), pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by a delegate of the Director of Employment Standards (the “Director”) on August 27th, 1999 (the “Determination”).

According to the information set out in the Determination, on September 25th, 1998 a delegate of the Director issued a determination against Aspen Educational and Social Services Ltd., Tinder Enterprises Ltd. and The Wild McLeans Historical Interpretation Inc. operating as “Historical Hat Creek Ranch” in the amount of \$9,930.12 on account of unpaid wages and interest owed to three former employees, namely, Lee Anne Bachand, Daniel Boss and Larry Maki. I shall refer to this latter determination as the “Corporate Determination”. I understand the complainants’ unpaid wage claims set out in the Corporate Determination crystallized in February 1998.

It should also be noted that by way of the Corporate Determination the three firms named therein were declared to be “associated corporations” as defined by section 95 of the *Act*. In light of the section 95 declaration, all three firms are individually responsible for the entire amount of the complainants’ unpaid wage claims (*i.e.*, the three firms are considered to be a single entity for purposes of the *Act* and are thus jointly and severally liable for any unpaid wages). Similarly, a director or officer of any one of the three firms would be individually liable, subject to the 2-month per employee wage “ceiling” and any other defences set out in section 96, for any unpaid wages.

The Corporate Determination was not appealed to the Tribunal and the time for filing such an appeal expired on October 19th, 1998. The Determination now before me was issued against Madu on the basis that she was an officer and/or director of all three corporations named in the Corporate Determination when the three complainants’ wages were earned or should have been paid (see section 96 of the *Act*).

Madu appeals the Determination on several grounds, the primary ground being that she was never a director of any of the three corporations named in Corporate Determination.

### ISSUE TO BE DECIDED

These Reasons for Decision, however, do not address the merits of Madu’s appeal; rather, since Madu’s appeal was filed after the statutory appeal period (see section 112) had expired, Madu now seeks an extension of the appeal period.

## ANALYSIS

Section 109(1)(b) of the *Act* states that the Tribunal may “extend the time period for requesting an appeal even though the period has expired”. The Determination, at the bottom of page 5, contains the following notice (**boldface** in original):

### **Appeal Information**

Any person served with this Determination may appeal it to the Employment Standards Tribunal. The appeal must be delivered to the Tribunal no later than 4:30 PM on **September 20, 1999**. Complete information on the appeal procedures is attached. Appeal forms are available at any office of the Employment Standards Branch.

Madu’s appeal was actually filed with the Tribunal on November 12th, 1999, some 3 weeks after the statutory appeal period expired. On November 23rd, 1999, the Tribunal’s Registrar wrote to all parties asking for submissions regarding the timeliness of Madu’s appeal. Ms. Madu filed submissions with the Tribunal on December 2nd and again on December 29th, 1999 but neither of these two submissions addresses, in any fashion, the application for an extension of the appeal period; rather, Ms. Madu simply reiterates her previously-stated position as to why the Determination ought to be set aside on its merits.

This Tribunal has repeatedly stressed that extensions of the appeal period will not be granted as a matter of course. The onus lies on the party seeking a dispensation to advance a credible explanation for the delay in filing an appeal. The applicant should also demonstrate that an extension will not prejudice the interests of other affected parties. In the instant case, the appellant, despite being specifically asked to do so, has not advanced *any* explanation as to why her appeal was not filed in a timely manner. Further, I note that information contained in the B.C. Registrar of Companies’ records indicate that in February 1998 Madu was an officer of Tinder Enterprises Ltd., one of the three firms held to be associated in the Corporate Determination. Thus, even if one was to consider the merits of the appeal, the appellant’s position is problematic.

In light of the foregoing, and most especially in the absence of any explanation for the delay in filing this appeal, I do not think it appropriate to extend the appeal period.

## ORDER

The appellant’s application for an extension of the appeal period is refused. Accordingly, this appeal is dismissed in accordance with the provisions of section 114(1)(a) of the *Act*.

---

**Kenneth Wm. Thornicroft**  
**Adjudicator**  
**Employment Standards Tribunal**