



An appeal

- by -

Guy Morgan, a Director or Officer of C GED Forest Products Ltd.
("Mr. Guy Morgan")

- 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: Sheila McDonald

FILE No.: 2000/717

DATE OF DECISION: February 7, 2001

DECISION

OVERVIEW

Mr. John Dafoe, Delegate of the Director of Employment Standards, issued a Determination to Mr. Guy Morgan, a Director or Officer of C GED Forest Products Ltd dated 26 September 2000. The Determination ordered Guy to pay Douglas Daniels, a former employee of C GED Forest Products Ltd. wages in the amount of \$1,528.09 as specified under Section 96 of the *Act*.

ISSUE

The issue is whether Mr. Guy Morgan was a director of the C GED Forest Products Ltd. at the time that wages were earned or should have been paid to Douglas Daniels, an employee of C GED Forest Products Ltd.

THE FACTS AND ANALYSIS

Mr. Dafoe issued a Determination dated May 18, 2000 ordering C GED Forest Products Ltd. to pay Mr. Daniels wages in the amount of \$1,528.09 including interest accrued to that date. The appeal period on that Determination expired on 12 June 2000 and no appeal was filed. After attempting for several months, without success, to collect these wages from the Employer Mr. Dafoe wrote to the Employer stating that should the amount owed not be paid by 27 August 2000 he would be issuing Determinations against each of the Officers and Directors of the Employer.

On 26 September, 2000 Mr. Dafoe issued a Determination to Mr. Guy Morgan, a Director or Officer of C GED Forest Products Ltd. ordering that Mr. Douglas Daniels be paid \$1,528.09 by 19 October, 2000.

In Mr. Dafoe's written submission to the Tribunal he provided a copy of a search of the Registrar of Companies that lists the Directors of C GED Forest Products Inc. as of June 28, 2000. Mr. Guy Morgan is listed as one of the Directors. Mr. Dafoe also provided a letter dated 17 August to C GED Products Ltd. stating that if the wages owed Mr. Daniels were not paid he would be issuing Determinations for the outstanding wages against each of the individual directors of the company. This letter was copied to Mr. Guy Morgan.

Section 96 of the *Act* states that:

- (1) *A person who was a director or officer of a corporation at the time the wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 month's unpaid wages for the employee.*
- (2) *Despite subsection (1), a person who was a director or officer of a corporation is not personally liable for*
 - (a) *any liability to an employee under section 63, termination pay or money payable under a collective agreement in respect of an individual or group terminations, if the corporation is in receivership or is subject to action under section 427 of the Bank Act (Canada) or to a proceeding under an insolvency Act,*
 - (b) *vacation pay that becomes payable after the director or officer ceases to hold office, or*
 - (c) *money that remains in an employee's time bank after the director or officer ceases to hold office.*
- (3) *This Act applies to the recovery of the unpaid wages from a person liable for them under subsection (1).*

The evidence shows that Mr. Guy Morgan was a director of C GED Forest Products Ltd. at the time that the wages were earned or should have been paid.

There is nothing in Mr. Morgan's appeal that denies he was a director. In fact in a letter dated October 16th, 2000 written to Mr. Dafoe he signs under the title of President, C GED Corporation.

I find that Mr. Guy Morgan was a Director of C GED Forest Products Ltd. at the time that wages were earned or should have been paid to Douglas Daniels.

ORDER

Pursuant to Section 115 of the *Act* I order that the Determination be confirmed.

SHEILA MCDONALD

**Sheila McDonald
Adjudicator
Employment Standards Tribunal**