

An appeal

- by -

Beverly Kovic
("Kovic")

- 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 (as amended)

TRIBUNAL MEMBER: Shafik Bhalloo

FILE No.: 2009A/072

DATE OF DECISION: June 26, 2009

DECISION

OVERVIEW

1. This matter arises out of a referral back to the Director of Employment Standards (the “Director”) in Decision BC EST # D048/09 to establish the liability, pursuant to Section 96 of the *Employment Standards Act* (the “*Act*”), of Beverly Kovic (“Kovic”), a Director of Victoria Floor Essence Incorporation (“Victoria Floor”). In Decision BC EST # D048/09, the Tribunal, pursuant to Section 115(1)(b) of the *Act*, ordered that the Determination against the bankrupt Kovic made on January 28, 2009 be referred back to the Director with instructions that the latter obtain proper legal advice and reconsider the Determination in light of the provisions of the *Bankruptcy and Insolvency Act*.
2. On May 25, 2009, the Tribunal received a report from the Director advising that he had obtained legal advice and considered the matter and “now acknowledges that the BIA stay precludes the issuance of the Determination against the bankrupt director Beverly Anne Kovic”. The Director further stated that he “does not object to the cancellation of the Determination” against Kovic and has now changed “his standard operating policy so that in the future, determinations will not be issued to bankrupt directors”.
3. The Tribunal did not receive any response to the Director’s report from any party.
4. This matter has been decided based on the written submissions of the Director.
5. Having reviewed the Director’s report, I find that the appropriate course of action in this case is to cancel the Determination against Kovic made on January 28, 2009.

ORDER

Pursuant to Section 115 of the *Act* and further to the Tribunal’s Decision BC EST # D048/09, I order that the Determination dated January 28, 2009 against Kovic be cancelled.

Shafik Bhalloo
Member
Employment Standards Tribunal