

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-

B.S. Forest Service Management Ltd.

(the “employer”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE No.: 98/405

DATE OF DECISION: August 18, 1998

DECISION

OVERVIEW

This is an appeal brought by Ranbir Budial on behalf of B.S. Forest Service Management Ltd. (the “employer”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on May 29th, 1998 under file number 71763 (the “Determination”).

By way of the Determination, the Director levied a \$500 penalty as provided for in section 28 of the *Employment Standards Regulation* for failure to produce employment records that had been demanded pursuant to section 85(1)(f) of the *Act*.

In a letter dated June 21st, 1998 appended to the employer’s appeal form, Mr. Budial, on behalf of the employer, acknowledged that he received the demand for records and, in essence, admitted that he refused to produce the records in question. No substantive defence has been advanced by the employer. That being the case, I consider this appeal to be entirely without merit.

The employer appears to labour under the false assumption that it need not disclose records upon being served with a demand unless and until the Director gives full and complete particulars regarding the identity of the complainants and the nature of their complaints. However, the Director is not so constrained when issuing a demand under section 85(1)(c) of the *Act*. Among other reasons, such an approach would be inconsistent with section 75 of the *Act* which preserves a complainant’s right to privacy. Further, a demand need not be issued in the course of an investigation of a specific complaint--an investigation may be undertaken in the absence of a complaint [see section 76(3) of the *Act*].

ORDER

Pursuant to section 114(1)(c) and 115 of the *Act*, I order that Determination be confirmed as issued in the amount of **\$500**.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal