

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.: 98/322

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 1st, 1998 under file number 71763 (the “Determination”).

Following an investigation of complaints filed by five former employees, the Director’s delegate determined that the employer was liable for \$14,131.79 on account of unpaid wages and interest (see section 88 of the *Act*). The employer did not participate in this investigation; indeed, the employer took active steps to avoid participating such as failing to return the delegate’s phone calls or to produce relevant payroll records.

In a memorandum appended to its appeal form, the employer asserts that the five complainants’ wage claims were “fabricated” and that the employees in question were terminated for “inadequate production levels”. The employer also says that three of the complaints were filed beyond the statutory time limit set out in section 74(3) of the *Act*.

ANALYSIS

The employer was given a full and fair opportunity to participate in the original investigation but manifestly failed to avail itself of that opportunity. This Tribunal has consistently held that an appellant is not permitted to, in effect, entirely (and in this case willfully) ignore the investigative process and then, when the investigation results in an adverse determination, demand to have its case heard anew by way of the appeal process--see, among other decisions, *Tri-West Tractor Ltd.*, EST Decision No. D268/96 and *Kaiser Stables Ltd.*, EST Decision No. 058/97.

I might add that the employer, despite being asked to do so, has not presented *any* documentary or other evidence to support its bald assertion that the employees’ claims were fabricated and retaliatory.

The employer’s assertion that three of the complaints were statute-barred is devoid of any merit. Even accepting the employer’s statement regarding the actual “end of employment” dates, all three complaints were filed well within the 6-month limitation period set out in section 74(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 **\$14,131.79** together with whatever further interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal