

An appeal

- by -

Toms Mupenda Masumbuko
(“Masumbuko”)

- 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: David B. Stevenson

FILE No.: 2011A/100

DATE OF DECISION: August 12, 2011

DECISION

SUBMISSIONS

Ros Salvador

counsel for Toms Mupenda Masumbuko

Karpal Singh

on behalf of the Director of Employment Standards

OVERVIEW

1. This decision completes an appeal filed under Section 112 of the *Employment Standards Act* (the “*Act*”) by Toms Mupenda Masumbuko (“Masumbuko”) of part of a Determination issued by a delegate of the Director of Employment Standards (the “Director”) on February 4, 2011.
2. The Determination was issued on complaints filed by fifty-eight former employees of Khaira Enterprises Ltd. (“Khaira”), including Masumbuko. In that part of the Determination applying to Masumbuko, the Director found Khaira had contravened the *Employment Standards Act* (the “*Act*”) by failing to pay Migabo regular and overtime wages, statutory holiday pay, compensation for length of service and vacation pay and ordered Khaira to pay him an amount of \$12,169.62, an amount which also included interest under section 88 of the *Act*.
3. In BC EST # D065/11 (the “original decision”), I accepted the Director had erred in calculating the wages owed Masumbuko. I referred the Determination back to the Director to make necessary changes in that calculation.
4. The Director has reviewed the matter and has issued a supplement to the Determination, dated July 21, 2011, indicating the Determination should be varied to show Masumbuko is owed wages, including section 88 interest, in the amount of \$12,778.95.
5. The Tribunal has requested submissions from the parties on the calculation set out in the supplement.
6. Counsel for Masumbuko has filed a response. She takes no issue with the Director’s calculation. Khaira has filed no response.
7. Based on the material before me, I accept the calculation in the supplement accords with the original decision and with the provisions of the *Act*.

ORDER

8. Accordingly, and pursuant to Section 115 of the *Act*, I order that part of the Determination dated February 4, 2011 applying to Masumbuko be varied to show the amount of wages owing to him as \$12,778.95, together with any interest that has accrued under section 88 of the *Act*.

David B. Stevenson
Member
Employment Standards Tribunal