

**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 -

Centrux Management Ltd.  
(" Centrux ")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No:** 2000/017

**DATE OF DECISION:** February 28, 2000

**DECISION**

**OVERVIEW**

This is an appeal filed with the Tribunal on January 7th, 2000 by Albert Kenneth Archibald, presumably acting as agent for CentruX Management Ltd. ("CentruX"), pursuant to section 112 of the *Employment Standards Act* (the "Act") from a Determination issued by a delegate of the Director of Employment Standards (the "Director") on October 28th, 1999 under file number ER 095-475 (the "Determination").

The Director's delegate determined that CentruX owed its former employee, Terrance J. Hutchinson ("Hutchinson"), the sum of \$2,466.43 on account of 2 weeks' wages as compensation for length of service (see section 63) together with concomitant vacation pay and interest. CentruX's position on appeal is that the delegate erred in finding that Hutchinson was not dismissed for just cause.

**ISSUE TO BE DECIDED**

As noted above, this appeal was filed on January 7th, 2000. However, the appeal period expired on November 22nd, 1999. Accordingly, the appellant seeks an extension of the appeal period pursuant to section 109(1)(b) of the *Act*. These reasons address only the "timeliness" issue.

**ANALYSIS**

As noted in the Determination, CentruX was declared bankrupt on September 8th, 1999---it is not clear from the material before me whether CentruX made a voluntary assignment or was petitioned into bankruptcy by one or more creditors. CentruX's licensed trustee is the firm Evancic Perrault Robertson Ltd.; so far as I am aware, the trustee has never filed an appeal of the Determination even though the trustee was served with a copy of the Determination.

Section 71(2) of the federal *Bankruptcy and Insolvency Act* states that "on an assignment [into bankruptcy], a bankrupt ceases to have any capacity to dispose of or otherwise deal with his property, which shall, subject to this Act and to the rights of secured creditors, forthwith pass to and vest in the trustee named in the...assignment...". The trustee, in turn, is given wide authority to deal with the bankrupt's property. For example, the trustee may, with the permission of the inspectors, "bring, institute or defend any action or other legal proceedings relating to the property of the bankrupt" [see section 30(1)(d)]. Thus, on bankruptcy, the bankrupt's property (subject to certain exceptions that have no application in this case) vests in the trustee who is given, for the most part, exclusive authority to deal with that property.

Accordingly, neither CentruX, nor Albert Kenneth Archibald in his own right or as the purported agent for CentruX, has the legal authority to appeal the Determination--that right lies solely with CentruX's licensed trustee, Evancic Perrault Robertson Ltd. (see *Fyfe and Canadian Neon Ltd.*, B.C.E.S.T. Decision No. 080/00). Whether this appeal was filed by Mr. Archibald in his

personal capacity, or as CentruX's agent, the same result holds: the appeal is simply not properly before the Tribunal. Inasmuch as this appeal, irrespective of the timeliness of the appeal, is not properly before the Tribunal, I do not consider this to be an appropriate case to extend the appeal period.

**ORDER**

The appellant's request for an extension of the appeal period is refused. Accordingly, pursuant to subsections 114(1)(a), (b) and (c) of the *Act*, this appeal is dismissed.

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**Kenneth Wm. Thornicroft**  
**Adjudicator**  
**Employment Standards Tribunal**