

An appeal

- by -

Daniel Braconnier, a Director or Officer of
Halo Project Development Corporation

- 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

TRIBUNAL MEMBER: John M. Orr

FILE No.: 2004A/42

DATE OF DECISION: May 21, 2004

DECISION

SUBMISSIONS

Daniel Braconnier	On behalf of himself as a Director or Officer of Halo Project Development Corporation
Robert G. Turner	Delegate on behalf of the Director

OVERVIEW

This is an appeal by Daniel Braconnier (“Braconnier”) pursuant to Section 112 of the Employment Standards Act (the “*Act*”) from a Determination dated February 17, 2004 by the Director of Employment Standards (the “Director”) finding him personally liable as a Director or Officer of Halo Project Development Corporation (“Halo” or “the corporation”) for a wage liability incurred by the corporation.

In the exercise of its authority under section 107 of the *Act* the Tribunal has concluded that an oral hearing is not required in this matter and that the appeal can be properly addressed through written submissions.

By way of background to the determination against Braconnier, Howard Mazor (“Mazor”) was employed by Halo to do construction work on a chalet at Big White and filed a complaint alleging that Halo had failed to pay wages as required by the *Act*. The Director’s delegate investigated the matter and determined, on February 13, 2004, that Halo was in contravention of the *Act* and had failed to pay wages owed to Mazor in the amount of \$1,635.60 (plus interest) and also imposed an administrative penalty.

On February 17, 2004 the Director issued a further determination finding Braconnier personally liable for the amount of Halo’s liability as a Director and Officer of Halo.

Halo appealed the original determination and Braconnier appealed his personal liability. The Tribunal considered Halo’s appeal but confirmed the determination against the corporation.

This decision addresses Braconnier’s appeal against his personal liability as an officer or director of the corporation.

ISSUE

The issue in this case is whether the appellant has raised any grounds to cancel or vary the personal determination made against him as a Director or Officer of the corporation.

ANALYSIS

I am not satisfied that there is any basis upon which to vary or cancel the determination made against Braconnier personally as a Director or Officer of the corporation. In a previous decision the Tribunal confirmed the determination against the corporation. The appeal filed by Braconnier personally seems to rely on the success of the corporate appeal as no separate grounds are submitted.

Braconnier does not deny being a Director or Officer of the corporation at the time that the wage liability was incurred. He does not suggest any other valid defence to his liability as a Director or Officer. Accordingly, the determination against him personally as a director or officer of the corporation must stand confirmed

ORDER

I order, under section 115 of the *Act*, that the Determination herein dated February 17, 2004 is confirmed.

John M. Orr
Member
Employment Standards Tribunal