Employment Standards TRIBUNAL

An appeal

- by -

Pano Peterson

- 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: John Savage

FILE No.: 2006A/77

DATE OF DECISION: September 12, 2006

BRITISH COLUMBIA

DECISION

SUBMISSIONS

Pano Peterson for himself

Clint Best for Action International Kelowna

Joe LeBlanc, for the Director of Employment Standards

OVERVIEW

1. Pano (Peter) Peterson ("Peterson") filed a complaint with the Director of Employment Standards alleging that his employer, Clinton John Best operating as Action International Kelowna ("Best"), contravened section 74 of the *Employment Standards Act*, RSBC 1996, c.113, (the "*Act*"), by failing to pay wages.

2. Peterson claims that Best failed to pay overtime wages and annual vacation pay. A second complaint is that when Peterson raised the issue of filing a complaint Best terminated his employment, contravening section 83 of the *Act*.

3. The Delegate of the Director (the "Director") held a hearing at which both parties were present and gave evidence. Following the hearing the Director issued a Determination dated May 11, 2006 (the "Determination"), dismissing the complaint.

4. Peterson filed an appeal to this Tribunal. In the Appeal Form the grounds of appeal are that the Director erred in law and failed to observe the principles of natural justice in making the Determination.

5. With respect to the ground of appeal that the Director erred in law, Peterson claims that the Director ignored his evidence that, he says, shows that Best violated Section 83 of the *Act* in terminating his employment because of his concern about a complaint under the *Act*.

6. With respect to the ground of appeal that the Director failed to observe the principles of natural justice, Peterson itemizes the complaint as follows: there was "(A) Lack of Objectivity/Equal Treatment, (B) Refusal/Neglect to Accept/Examine All Evidence Presented Prior to/at Hearing, (C) Failure to make logical Application/Conclusions of/from Accepted Evidence, and (D) Unprofessional Conduct in Hearing to Intimidate/Fluster Complainant".

7. Peterson filed a lengthy written submission, a response was received from the Delegate, and Peterson then filed a brief reply. No submissions were initially received from Best.

8. A late submission dated August 14, 2006 was received from Best. A late submission was received from the Delegate dated August 10, 2006. Once these were received the Tribunal forwarded them to Peterson and received a final reply dated August 27, 2006.

9. The Tribunal determined to hear this appeal by way of the written submissions received.

ISSUES

10. The issues are:

- Did the Director err in law in finding that Best did not contravene Section 83, Section 37, or Part 7 of the *Act*; and
- Did the Director fail to observe the principles of natural justice in the circumstances of this case?

LEGISLATION

11. Peterson alleges three breaches of the *Act*.

12. Peterson alleges that Best breached section 83 of the *Act*. Section 83 of the *Act* is designed to ensure that employees are not mistreated if a complaint is lodged or if an investigation is made or an appeal or other action under the *Act* has been taken. To provide such protection certain actions of an employer are prohibited. Section 83 reads as follows:

> 83. (1) An employer must not
>
> (a) refuse to employ or refuse to continue to employ a person,
>
> (b) threaten to dismiss or otherwise threaten a person,
>
> (c) discriminate against or threaten to discriminate against a person with respect to employment or a condition of employment, or
>
> (d) intimidate or coerce or impose a monetary or other penalty on a person, because a complaint or investigation may be or has been made under this Act or because an appeal or other action may be or has been taken or information may be or has been supplied under this Act.

13. Peterson also alleges that Best breached the *Act* in that Peterson was not paid overtime for hours worked. Consequential on the breaches alleged for failing to pay overtime, there are breaches of the annual vacation pay requirements.

14. Part 4 of the *Act* specifies the requirement to pay overtime. Section 35 provides as follows:

> 35. (1) An employer must pay an employee overtime wages in accordance with section 40 if the employer requires, or directly or indirectly allows, the employee to work more than 8 hours a day or 40 hours a week.
>
> (2) Subsection (1) does not apply for the purposes of an employee who is working under an averaging agreement under section 37.
>
> 1995, c. 38, s. 35; 2002, c. 42, s. 15.

15. Part 7 of the *Act* specifies annual vacation entitlement and how annual vacation pay is calculated.

APPEALS UNDER THE ACT

16. An appeal under the *Act* to this Tribunal is governed by section 112 of the *Act*. As the appeal is a statutory one, the appeal provision constitutes a code which forms the basis of an appeal. Section 112(1) specifies the only grounds of appeal:

> 112. (1) Subject to this section, a person served with a determination may appeal the determination to the tribunal on one or more of the following grounds:
>
> (a) the director erred in law;
>
> (b) the director failed to observe the principles of natural justice in making the determination;
>
> (c) evidence has become available that was not available at the time the determination was being made.

17. Thus, it is not open to an appellant to appeal factual findings, findings of mixed fact and law, or to introduce new evidence on appeal that was available at the time the determination was made.

18. In a number of decisions of the Employment Standards Tribunal, panels have adopted the definition of "error of law" set out by the British Columbia Court of Appeal in *Gemex Developments Corp. v. British Columbia (Assessor of Area #12 – Coquitlam)*, [1998] B.C.J. No. 2275 (B.C.C.A.). That definition can be paraphrased as finding an error of law where there is:

1. a misinterpretation or misapplication of a section of a statute;
2. a misapplication of an applicable principle of general law;
3. acting without any evidence;
4. acting on a view of the facts which could not reasonably be entertained; and
5. adopting a methodology that is wrong in principle.

BREACHES OF NATURAL JUSTICE

19. With regard to this appeal, Peterson also takes issue with various findings of the Director on the basis that the Director erred in failing to observe the principles of natural justice in making the Determination. Principles of natural justice are not referenced in the *Act* but must be based on the common law.

20. The Latin phrase *audi alteram partem*, which means hearing both sides fairly, describes the duty to act judicially. In essence, the parties to a dispute are entitled to know the case against them and to be heard by, and make submissions to, the decision-maker.

21. The several rights that arise out of this duty are: the right to notice, the right to be heard (although not necessarily to have an oral hearing), the right to know the case to be met and to answer it, the right to cross-examine witnesses (in appropriate circumstances), the right to counsel, and the right to a decision on the evidence: *D. Jones & A. de Villars, Principles of Administrative Law*, (Toronto: Carswell, 1985) c. 8 at 197-241; *Hundal v. Superintendent of Motor Vehicles* (1985), 32 M.V.R. 197 (B.C.C.A.); *Murphy v. Dowhaniuk* (1986), 22 Admin. L.R. 81 (B.C.C.A.); *R. v. Canada Labour Relations Board* (1971), 18

D.L.R. (3d) 226 (Man. C.A.); *Omineca Enterprises Ltd. v. British Columbia (Minister of Forests)*, [1994] 2 W.W.R. 422; *Re City of Vancouver and Assessment Appeal Board et al.* (1996), 135 D.L.R. (4th) 48.

22. A decision-maker cannot have bias. The fact that a decision-maker finds against a party cannot, of course, be considered evidence of bias, nor the fact that another decision-maker might come to a different conclusion: *Westergaard v. BJ Services Company Canada*, WCAT-2006-03172.

23. Since an allegation that there has been a breach of natural justice would, if supported, impugn the whole of the Director's decision, I will deal with those submissions first.

WAS THERE A BREACH OF NATURAL JUSTICE?

24. Peterson enumerates four principles in arguing that the Director failed to observe the principles of natural justice and develops arguments in connection with each principle, so I will follow that format here, discussing each principle under the heading as he describes it.

Lack Objectivity/Equal Treatment

25. Under this head Peterson says that the Director rejected information from his written notes while accepting evidence from Best based on the employers written notes.

26. In the adjudicating process the adjudicator, in the case of conflict, must necessarily make a decision based on the evidence that the adjudicator accepts. In the case of a conflict in evidence, resolution of that conflict requires that evidence from one source be preferred to the evidence from another source.

27. The acceptance or rejection of evidence or the weight to be given any particular evidence, however, is a matter of fact, not a question of law: *Ahmed v. Assessor of Vancouver* (1992) BCSC 325; *Provincial Assessors of Comox, Cowichan and Nanaimo v. Crown Zellerbach Canada Ltd.* (1963) 42 WWR 449 at page 471.

28. Since the weight of evidence is a matter of fact, it is not a matter that can be reviewed in an appeal to this Tribunal that is restricted to dealing with errors of law.

29. Peterson also says that the Determination lacked objectivity by failing to mention two key points, the fact that a settlement offer was made and then withdrawn, and the identity of Best's business partner, who was Best's wife and the sister of the complainant.

30. An adjudicator is not, of course, required to mention and review every argument and discuss and analyze every piece of evidence presented for consideration in a Determination. In general, information regarding settlement offers is not placed before adjudicators as such communications are generally privileged.

31. In this case, however, the Director did receive and review this evidence. In the Determination the Director notes:

> "Mr. Peterson claims that his sister Angie (Mr. Best's wife) called and threatened him regarding the claim he was making for overtime and vacation pay and tried to intimidate him. He submitted as an exhibit an example of the things that he claims she would say when she called to harass him. Mr. Peterson directed me to one exchange in particular that took place on September 6, 2005 and

> his notes of that conversation. During that conversation he writes that she offered him $2500.00 and stated that they did not want to go through the hassle and that he should take the money and walk. He also writes that she said if he doesn't accept the offer that Mr. Best will not give him a good reference and he (Mr. Best) will tell businesses that call not to hire you.
>
> Mr. Peterson claims that this action by his sister was all part of the same overall action by the employer to try to intimidate him into not filing a complaint".

32. It is clear, in my opinion, that the adjudicator was aware of this evidence and did not overlook or ignore inconvenient facts. In the above passage he references the offer and the threats Peterson alleges, noting Peterson's claim that the alleged threat by "Angie" (Best's wife and Peterson's sister) was "all part of the same overall action by the employer".

33. Peterson's claim, therefore, that the adjudicator failed to consider these matters is without merit.

Refusal/Neglect to Accept/Examine All Evidence Presented Prior to/at Hearing

34. Under this heading, Peterson says "All documents I delivered to ESB prior to hearing were relevant to the case. DES refused to read them and selected only those that he could misconstrue to favor/protect the employer".

35. In reviewing the Determination, it is clear that by the time the matter came for hearing before the Delegate the number of issues between Peterson and Best had been reduced. For example, it was originally an issue whether Peterson was an employee or independent contractor. Not every document submitted during the investigation would likely be relevant to the Director since this issue had been resolved.

36. In any event, the parties to a hearing are responsible for presenting their case before the Director. If there are documents that are important for their case these should be submitted in evidence.

37. There is a further assertion here that the Director only read and selected those documents "he could misconstrue to favor/protect the employer". The Director, contrary to this statement, refers to documents that became exhibits and were submitted by Peterson. The Director in the Determination references Peterson's transcript of evidence, the reconstructed claim for hours worked, and the emails Peterson sent at various hours that Peterson says showed the late hours he worked.

38. In reviewing the Determination and Exhibits that form the record in this appeal, I cannot find support for Peterson's assertion that there was any selection of documents or that the exhibited documents were somehow selected to favour the employer.

39. Peterson also makes the assertion that "Several points of fact were neglected or misreported in the DES report". He references a nine page attachment that comments on nearly every paragraph in the Director's decision.

40. An example of this is Mr. Peterson's reference to "Paragraph J". Mr. Peterson's comment regarding Paragraph J is as follows:

> "I tried submitting e-mails that show times I sent work to the employer and that showed the employer e-mailing me (attch W1). I also pointed out the transcript and CD where the employer

admitted to my overtime (attchs Z1(CD) & Z2). DES told me that didn't prove anything and that I could have e-mailed them later. I told him that if I had finished work after 7 hours in June, 2005 I would have gone biking or gone out and not have e-mailed anything until the next work day. He verbally disagreed with me. I did not say that the e-mails showed what time I commenced working on those days; DES said they didn't and tried to force me into agreeing with him. I told him that these e-mails showed my overtime by their later time-stamps and offered to pull up emails from my notebook computer that show earlier times. I also told him that I could pull up my database hotlist which shows earlier times. He just said that wouldn't prove anything and would not allow me to present or submit them. He then said that the only way to prove what time I started work was if someone was working with me to testify that I started at an early time. I told him that my sister could testify to this but wives may side with and lie for their husbands".

41. Paragraph J in the decision is as follows:

> "Mr. Peterson also submitted evidence in the form of copies of emails that he claims prove that he worked beyond 8 hours in a day and 40 in a week. They show the times that the emails was sent and responded to by Mr. Peterson. Some of the times were as late as 10PM, however under further questioning Mr. Peterson admitted that the email does not show what time he commenced working on those days."

42. Paragraph J is intended as a summary of Peterson's position. The Director analyzes the evidence under the heading "Findings and Analysis".

43. In the Findings and Analysis section of the Determination the Director prefers the evidence regarding hours of work referenced in the invoices Peterson submitted to Best. Best had testified that he did not keep track of Peterson's hours as he thought Peterson an independent contractor. Peterson did not keep a daily record of hours either, but he did invoice every two weeks and on the invoices specified the hours. The Director indicated that the emails did not show what time the work commenced. Moreover, an email that was in evidence said "I will put in 7 hours of work as usual". So the Director preferred the contemporaneous record provided by the invoicing by Peterson of his own hours of work to the oral evidence that Peterson gave. He found that evidence supported by the email referencing the "usual" hours.

44. In my opinion, it was open for the Director to conclude that Peterson's hours of work were as indicated on the invoicing as confirmed by his "usual" hours of work noted in the email. As indicated above, the acceptance or rejection of evidence and the weight to be given the evidence was a matter for the Director and does not give rise to an error of law.

45. I have reviewed the other comments provided by Peterson to each paragraph in the Determination. They are of the same nature, reasserting his position and taking issue with the Directors conclusions. This misapprehends the nature of an appeal to the Tribunal. An appeal to the Tribunal is not a rehearing of the complaint or a complete reconsideration of the evidence submitted in an appeal. It is restricted to ascertaining whether there are errors of law in the Determination: *Re Britco Structures Ltd.,* [2003] B.C. E.S.T.D. No. 260 (QL), BC EST#D 260/03.

Failure to make Logical/Application/Conclusions of/from Accepted Evidence.

46. Under this heading, Peterson notes his own positive professional performance and suggests this and evidence that the parties worked under an independent contractor status should weigh in favour of a different determination. Neither of these points directly bears on the issues in dispute.

47. For example, the fact, as it may be, that Peterson had a positive professional performance, does not bear on whether Peterson worked overtime. Likewise, the fact that Best initially treated the relationship as one involving independent contractors, does not assist an examination of whether overtime was worked, or whether appropriate notice was given.

Unprofessional Conduct in Hearing to Intimidate/Fluster Complainant

48. Peterson under this heading makes various assertions about the conduct and statements of various employees of the Employment Standards Branch. Some of those assertions claim very serious misconduct. These assertions are not substantiated and are flatly denied by the Director. There is nothing in the record before me, other than the submissions of Peterson, which supports these assertions in any way. They are denied by the Delegate.

49. In my opinion this conflicting evidence does not prove that there was the unprofessional conduct alleged.

50. In summary, I find that the submission does not substantiate the claim that the Director failed to adhere to the principles of natural justice.

Did the Employer Breach Section 83?

51. Peterson alleges that Best breached section 83 of the *Act*. He says that Best threatened and intimidated him "…after I took a firm stand around January 2005, demanding that he put me on the payroll, pay overtime, vacation pay etc or I would go to the appropriate authority because what he was doing was illegal". Peterson's employment ended September 23, 2005. It is not disputed that Best gave verbal notice of termination to Peterson June 15, 2005 and that he followed this up with written notice August 19, 2005.

52. In my view Peterson's submission on this point reveals a misunderstanding of an employer's common law obligations and its obligations under the *Act*. Absent a collective agreement or other governing legislation, an employer may terminate the employment of an employee at any time. In some cases, however, termination may breach the *Act* or be a breach of the implied terms of a contract of employment.

53. An implied term of a contract of employment is that the contract will not be terminated except on reasonable notice. If reasonable notice is not given, the breach of contract gives rises to damages. Under the *Act* a contract of employment can be terminated without cause but the *Act* establishes certain minimum periods of notice. Absent notice, the employer is required to pay salary in lieu of such notice as specified in the *Act*.

54. Section 83 of the *Act* operates as an exception to this general regime.

55. In this case differences arose between the employer and the employee. Those differences culminated in a notice of termination being given by Best to Peterson on June 15, 2005. A written notice was given on August 19, 2005. The final day of employment was September 23, 2005.

56. The Director in his Determination described the position of Best as follows:

> "Mr. Best gave sworn testimony at the hearing. He stated that Mr. Peterson was not fired for reasons relating to his claim for overtime and vacation pay. He gave him written notice on June 15, 2005, which was long before he filed his complaint. Mr. Best entered in to evidence a copy of the notice of termination that was given on August 19, 2005. In the notice Mr. Best reminds Mr. Peterson of the previous discussion on June 15, 2005 and sets the final day of employment as September 23, 2005.
>
> Mr. Best went on to explain that the reason for the termination had to do with Mr. Peterson's negative attitude and how it was impacting the business. He entered in evidence a copy of a document called "Disciplinary Review Pano Peterson" (Pano is what Mr. Peterson is called by some people). That document, according to Mr. Best, sets out the reason for his termination. In the document Mr. Best states that:
>
> > *"This is meant in no way to be a personal attack. In every way it is meant to clearly articulate my perception of your behavior and to bridge communication so that you have the best opportunity to understand how I feel your behavior is affecting my business. Essentially it boils down to what I perceive as a very negative attitude. It's not necessarily your work that is in question – but how your attitude impacts your work and mine. At the same time you do not have some of the skills you require to do what is required as the business changes and I feel that your attitude prevents you from learning and moving forward. Your position seems to be that you "know it all" and I should be learning from you."*
>
> The document then identifies some of the specific issues such as: difficulty in communication, loss of temper and unprofessional conduct, will not take direction and an inability to see the big picture. The document ends with the following comment:
>
> > *"These behaviors are distracting and emotionally draining. Attempts to communicate these behaviors to you have been met with hostility and defensiveness. You have clearly told me that the problem is mine and you are not willing to change".*
>
> Mr. Best states that these are the reasons that Mr. Peterson was terminated and it had nothing to do with his threats to file a complaint. He simply could not work with Mr. Peterson's negative approach and unwillingness to take directions. He hired him for his expertise and because he was family but in the end he just could not work with him."

57. Peterson's position is described thus:

> "Mr. Peterson alleged he was fired for saying he was going to file a complaint under the Act. Mr. Peterson directed me to certain exchanges between Mr. Best and himself in the transcript exhibit that he contends are proof. He claims that the employer terminated him when he began to assert his rights under the Act and that he tried to blackmail him by threatening not to provide a reference letter.
>
> Mr. Peterson claims that his sister Angie (Mr. Best's wife) called and threatened him regarding the claim he was making for overtime and vacation pay and tried to intimidate him. He submitted as an exhibit an example of the things that he claims she would say when she called to harass him.

> Mr. Peterson directed me to one exchange in particular that took place on September 6, 2005 and his notes of that conversation. During that conversation he writes that she offered him $2500.00 and stated that they did not want go through the hassle and that he should take the money and walk. He also writes that she said if he doesn't accept the offer that Mr. Best will not give him a good reference and he (Mr. Best) will tell businesses that call not to hire you.
>
> Mr. Peterson claims that this action by his sister was all part of the same overall action by the employer to try and intimidate him into not filing a complaint.
>
> Mr. Peterson also stated that Mr. Best got rid of him to avoid having to pay him his entitlements under the Act. As proof he offered into evidence a copy of a job description that he claims "This fax shows that Clint wanted to get rid of me because he wanted to avoid getting in trouble for violating the Employment Standards Act…". Mr. Peterson feels the position spoken about in the job description was going to replace his position. Further, Mr. Peterson feels that this is proof that Mr. Best lied to him when he told him in their August 19, 2005 conversation that he didn't have enough work for him and he was not going to hire anyone else.
>
> In cross examination Mr. Peterson stated the fax which the job description was part of was from one of Mr. Best's clients and was addressed to Mr. Best. Also when asked if it was his job description he stated, no but some of the duties were similar.
>
> During further questioning Mr. Peterson acknowledged he received verbal notice of termination on June 15, 2005 and that he received written notice on August 19, 2005. The notice set September 23, 2005 as his last day of work for the employer in both the verbal and written notice.
>
> Mr. Peterson also stated that when he advised the employer that he would go to the appropriate authorities the employer replied "that is ridiculous I'm getting rid you because you did not do anything, and I'm giving you 3 months' notice"."

58. The Delegate concluded as follows:

> "The employer gave Mr. Peterson verbal notice of termination on June 15, 2005; his complaint to the Branch was not filed until October 28, 2005, some four months later.
>
> The matter of his complaint was not being investigated when he received notice nor was he providing the Branch with information about his complaint at that time.
>
> Mr. Peterson's evidence of the August 19, 2005 transcript was not the "smoking gun" that he claimed it was. As a matter of fact, I found it to be of very little use because it was transcribed by one of the interested parties (Mr. Peterson) not someone neutral. Further, Mr. Peterson, instead of simply transcribing what was said by the parties has injected a whole series of editorial comments on the document suggesting how the reader should interpret the statements. There seemed to be a lot of posturing and arguing by both sides to the conversation but nothing that I would consider being conclusive proof that Mr. Best tried to intimidate or coerce Mr. Peterson.
>
> On the day of the conversation Mr. Peterson was already two months into the verbal notice of termination and had received written notice that day. He was already losing his job, what could Mr. Best threaten, intimidate or coerce him with? It is also inconsistent with the notion of retaliatory action by an employer to give three months of notice.
>
> Section 83 of the Act protects employees from being intimidated or penalized for pursuing their rights under this Act, or for assisting the director in enforcing those rights. Employers are

> prohibited from retaliating against a person who has made a complaint or any other person because of an action taken under the Act.
>
> However the Act should not be interpreted to limit or otherwise affect the right of an employer to discharge, suspend, transfer, lay off, or otherwise discipline an employee for proper cause. Employers are also able to make reasonable, business-related changes in the operation of their business. I believe that Mr. Best simply could not work with Mr. Peterson for the reasons set out on his June 15, 2005 document and terminated Mr. Peterson because of it.
>
> I have reviewed the evidence thoroughly and do not support the allegation made by Mr. Peterson that his employer violated section 83 of the Act. Based on that I find this allegation to be without merit and it is dismissed."

59. On August 19, 2005 Peterson recorded his conversation with Best although the recording was not agreed to or known about by Best.

60. I have reviewed carefully the transcript prepared by Peterson of that lengthy conversation. Whether the transcript substantiates the Determination of the Director or not does not give rise to a question of law. It is some of the evidence that was before the Director. The Director also had the testimony of Best and Peterson. In my opinion, however, if required to make a determination on this evidence, I would find that the transcript substantiates the reasons Best gives for the termination, and thus the Determination of the Director.

61. Best terminated Peterson not "because a complaint or investigation may be or has been made under this Act or because an appeal or other action may be or has been taken or information may be or has been supplied under this Act". Such a finding is necessary if there is to be a breach of section 83. Simply put, Best terminated Peterson because of the difficulties they had working together.

62. Moreover, the sequence of events does not support Peterson's claim. Peterson says that Best threatened Peterson after Peterson complained about his employment in January 2005. Peterson, however, continued to be employed until September 2005, a period of 8 months. In addition, Peterson was terminated with notice. The notice was more than adequate under the *Act*. He was given oral notice and then written notice.

63. Peterson in his submission dated August 27, 2006 refers to the "real reason" for his dismissal being "to punish me for continuing to refer to Labour Law and to avoid legal trouble with your Ministry". In my opinion this assertion is simply not supported by the evidence.

64. Peterson argues in his submissions that his dismissal is not justified. That may be so. An employer, however, is entitled to terminate an employer with or without just cause. In so far as the *Act* is concerned, such termination does not give rise to a remedy under the *Act* if appropriate notice is given and there is no breach of section 83. In this case, as found by the Director, there was no breach of section 83. There was no error of law made in coming to that determination. Appropriate notice under the *Act* was given, so there was no breach of the *Act*.

65. The Director did not err in law in dismissing the complaint regarding the alleged breach of section 83.

OTHER BREACHES OF THE ACT

66. The other breaches of the *Act* alleged are that overtime was not paid and thus consequentially there were Part 7 entitlements that were not paid. The central issue regarding overtime was whether the evidence of Peterson should be accepted in the face of documents prepared by Peterson himself, and submitted in evidence, namely, his invoices for hours worked and his confirmatory email concerning the "usual" hours of work.

67. As I have noted above, there was evidence before the Delegate that supported the position of the Director. Even if I disagreed with the inference drawn by the Director from that evidence, the sufficiency of evidence does not give rise to any question of law upon which the decision of the Director can be reviewed in this appeal.

SUMMARY

68. There was no breach of the principles of natural justice in the hearing of the complaint. The Director did not err in law by dismissing the complaint.

ORDER

69. I order, pursuant to Section 115 of the *Act*, that the Determination of the Director is confirmed.

John Savage
Member
Employment Standards Tribunal