

An appeal

- by -

Derek Blyth
(the “Appellant”)

- 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

ADJUDICATOR: Wayne R. Carkner

FILE No.: 2001/748

DATE OF HEARING: March 22, 2002

DATE OF DECISION: March 28, 2002

DECISION

OVERVIEW

This is an appeal by Derek Blyth pursuant to Section 112 of the *Act* of a Determination issued by the Director of Employment Standards (the “Director”) on October 1, 2001. The Determination concluded that there was insufficient evidence that Woodpro Engineering Ltd. had contravened the vacation pay sections of the *Act*, and ceased the investigation of the Appellant’s complaint. The Appellant alleged that he was not paid vacation pay for his last year of employment.

APPEARANCES

For the Appellant	No Appearance
For the Respondent	Anita Hawes
For the Director	No Appearance

ISSUE

Was the Appellant paid vacation pay for his last year of employment with the Respondent?

FACTS AND ANALYSIS

This hearing was scheduled to commence at 09:00 am on March 22, 2002. A notice of oral hearing, dated February 15, 2001, was sent to the parties. The Appellant shortly thereafter contacted the Tribunal Offices and asked if he could attend the hearing by telephone conference call. The Tribunal acceded to this request. There was no mention of any problems with the date of the hearing.

The Respondent subsequently requested an adjournment from the Tribunal Offices and this request was declined as the reason supplied was not acceptable as being reasonably compelling enough to grant an adjournment.

On February 18th the Appellant phoned the Tribunal and requested an adjournment. This was not granted. On March 11 the Appellant was issued with a teleconference notice with the phone number to call enclosed. Several phone calls and correspondence were exchanged between the Tribunal and the Appellant prior to the date of the hearing. The Appellant still failed to provide a compelling reason to the Tribunal Offices as to why the hearing should be adjourned. In the correspondence to the Appellant he was reminded of the statement in the Notice of Oral Hearing, which read “If the Appellant fails to attend the hearing, the Tribunal will consider the appeal to be abandoned”.

On March 22, 2001 I waited until 09:45 am for the Appellant to phone in to allow us to commence the hearing. The Respondent was in attendance. I then contacted the Tribunal Offices to determine whether or not the Appellant had contacted them. He had not.

At 10:00 am I declared that the appeal was abandoned and concluded the hearing.

CONCLUSION

I conclude that the Appellant has abandoned the appeal due to his failure to attend at the hearing by teleconference.

ORDER

Pursuant to Section 115 of the *Act* I order that the Determination dated October 1, 2001 be confirmed.

Wayne R. Carkner
Adjudicator
Employment Standards Tribunal