

An appeal

- by -

Charles Wei  
("Mr. Wei")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

Pursuant to section 113 of the  
*Employment Standards Act* R.S.B.C. 1996, C. 113 (as amended)

**TRIBUNAL MEMBER:** David B. Stevenson

**FILE No.:** 2017A/10

**DATE OF DECISION:** September 20, 2017

## DECISION

### SUBMISSIONS

Jennifer R. Redekop

on behalf of the Director of Employment Standards

### OVERVIEW

1. On July 19, 2017, I issued a decision, BC EST # D076/17, on an appeal by Charles Wei (“Mr. Wei”), of a Determination issued by the Director of Employment Standards (the “Director”), through his delegate, denying Mr. Wei’s claim for wages.
2. In his appeal, Mr. Wei submitted the Director had erred in law and failed to observe principles of natural justice in denying his claim for wages.
3. I found Mr. Wei had not shown the Director had failed to observe principles of natural justice and dismissed this ground of appeal. I did, however, find the Director had erred in law in failing to find there was an employment relationship between Mr. Wei and Huigang Sun (Mr. Sun”) whose involvement in the aborted acquisition of Viceroy Homes Ltd. – a former employer of Mr. Wei – is described in BC EST # D076/17. I found, on the facts applied to the definitions of employer and employee under the *Act*, other provisions of the *Act* and principles arising under it, that Mr. Wei was an employee of Mr. Sun.
4. I ordered the Determination to be varied accordingly and referred the matter of calculating the wages owed to Mr. Wei back to the Director.
5. I have received a Report back from the Director calculating Mr. Wei’s wage entitlement. The calculation found Mr. Wei was owed wages in the amount of \$29,773.25, an amount that included compensation for length of service and interest under section 88 of the *Act*.
6. A copy of the Report was provided to Mr. Wei and to legal counsel for Mr. Sun for any submission either wished to make.
7. No submissions have been received from either party within the time set by the Tribunal for submissions to be made.
8. I have reviewed the Report and find no basis to interfere with the Director’s calculation of wages owed to Mr. Wei by Mr. Sun.
9. The appeal may now be finalized by the following order.

**ORDER**

10. Pursuant to section 115 of the *Act* and in accordance with my earlier decision on Mr. Wei's appeal, BC EST # D076/17, I order the Determination dated December 14, 2016, be varied to show Mr. Wei was an employee of Mr. Sun, who is an employer under the *Act*, and is owed wages from Mr. Sun in the amount of \$29,773.25, together with any interest that may have accrued under section 88 of the *Act* from the date of the last calculation.

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**David B. Stevenson**  
**Member**  
**Employment Standards Tribunal**