

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-

Zivoslavka Gavrilovic and Zivorad Gavrilovic
operating as J & R Plaster & Stucco

(“ J & R”)

- of Determinations issued by -

The Director of Employment Standards

(the “Director”)

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE Nos.: 97/822 and 97/823

DATE OF HEARING: March 11, 1998

DATE OF DECISION: March 2nd, 1998

DECISION

APPEARANCES

No appearance	for Zivoslavka Gavrilovic
No appearance	for Zivorad Gavrilovic
Thomas Ryan	on his own behalf
Kristian Walczak	on his own behalf
Hélène Beauchesne	for the Director of Employment Standards

OVERVIEW

This is an appeal brought by Zivoslavka Gavrilovic and Zivorad Gavrilovic, operating as J & R Plaster and Stucco (“J & R”), pursuant to section 112 of the *Employment Standards Act* (the “Act”) from three determinations issued by the Director of Employment Standards (the “Director”) on October 21st, 1997 all under file number 073-805.

The Director determined that J & R owed their former employees, Thomas Ryan (“Ryan”) and Kristian Walczak (“Walczak”), the total sum of \$1,404.21 on account of unpaid wages and interest. In addition, the Director also issued two penalty determinations, in the amount of \$500 and \$NIL, for failure to produce employment records and failure to pay wages, respectively.

On November 13th, 1997, J & R’s solicitor filed an appeal with respect to the determination issued in favour of Ryan and Walczak. On November 24th, 1997, J & R’s solicitor submitted a letter to the Tribunal which I understand to be an appeal with respect to the two penalty determinations. I note that this latter appeal was filed beyond the statutory time limit for the filing of such an appeal [see section 112(2) of the *Act*].

J & R’s appeals were set down for at the Tribunal’s offices in Vancouver at 1:00 P.M. on March 2nd, 1998. Notices of hearing were mailed to the appellants and to their solicitor on January 27th, 1998.

APPELLANTS’ REQUEST FOR AN ADJOURNMENT

In a letter dated February 20th and received by the Tribunal on February 23rd, 1998, J & R’s solicitor advised that he no longer acted for J & R and further advised that “they may be applying for an adjournment in order to find a new lawyer”. No such adjournment request was received by the Tribunal until 11:00 A.M. on March 2nd, 1998 (*i.e.*, two hours before the appeals were to be

heard) when the appellant Zivorad Gavrilovic faxed a letter to Tribunal seeking an adjournment so that he could instruct new legal counsel.

Bearing in mind that the two employees, Ryan and Walczak, opposed an adjournment as a new hearing date would have entailed them losing yet another day of work and the untimeliness of the adjournment request, I refused to grant an adjournment.

ORDER

There being no evidence before me upon which I could conclude that any of the three determinations before me ought to be set aside, pursuant to section 115 of the *Act*, I order that all three determinations be confirmed as issued in the respective amounts of \$1,404.21, \$500 and \$NIL together with whatever further interest that may have accrued, pursuant to section 88 of the *Act* since the date of issuance.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal