

**EMPLOYMENT STANDARDS TRIBUNAL**

In the matter of an appeal pursuant to Section 112 of the

*Employment Standards Act* S.B.C. 1995, C. 38

- by -

Bunthe Chea  
("Chea")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Norma Edelman

**FILE NO.:** 97/089

**DATE OF DECISION:** March 12, 1997

## DECISION

### OVERVIEW

This is an appeal by Bunthe Chea (“Chea”) pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”) from an a Determination Letter issued on January 23, 1997 by the Director of Employment Standards (the “Director”). The Determination advised Chea that his complaint was dismissed as it had not been filed within the statutory time limits.

### ISSUE(s) TO BE DECIDED

Should Chea be entitled to the assistance of the Director in recovering wages that he alleges is owed to him by his former employer, Golden West Document Shredding Inc. (“Golden West”) ?

### ANALYSIS

Chea was employed by Golden West from January 16, 1996 to May 14, 1996. He filed a complaint at the Employment Standards Branch on December 2, 1996.

On January 23, 1997, the Director issued a Determination which advised Chea that his complaint was filed outside the six month time limit, and as a result, no action would be taken regarding his complaint.

Chea appealed the Determination on February 10, 1997. In his reasons for the appeal Chea stated that the Determination is unfair and he wants the Tribunal to help him collect his wages.

Section 74 (2) and 74 (3) of the *Act* requires that a complaint relating to an employee whose employment has terminated must be delivered to an office of the Employment Standards Branch within six months after the last day of employment. There is no question that Chea filed his complaint beyond the 6 month time limit.

Section 76(2) of the *Act* states that the Director “may refuse to investigate a complaint” which was not made within the time limits in Section 74(3). In this case, the Director has declined to investigate the complaint. In my view, the Director has not erred by choosing to proceed in that manner. The *Act* does not provide for exceptions to the time limits in Section 74(2).

The Director’s Determination and this decision do not preclude Chea from pursuing other legal remedies.

**ORDER**

I find the Determination is correct and the appeal should be dismissed.

Pursuant to Section 115 of the *Act*, I order that Determination Letter dated January 23, 1997 be confirmed.

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**Norma Edelman**  
**Registrar**  
**Employment Standards Tribunal**