

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 -

Vesuvius Investments Ltd.
Operating as
Jimmy's Place

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: John M. Orr

FILE No: 2000/010

DATE OF HEARING: March 6, 2000

DATE OF DECISION: March 23, 2000

DECISION

APPEARANCES:

Dimitrios Petropoulos and Janice Kellington	On behalf of Vesuvius Investments Ltd
James Boyd	On his own behalf
Gerry Omstead	Delegate for the Director

OVERVIEW

This is an appeal by Vesuvius Investments Ltd operating as Jimmy's Place ("Vesuvius") pursuant to Section 112 of the Employment Standards Act (the "*Act*") from a Determination numbered ER# 016825 dated December 16, 1999 by the Director of Employment Standards (the "Director").

The Director determined that a complainant, James Boyd ("Boyd") was an employee and was entitled to unpaid wages in the amount of \$3,915.25 in relation to overtime and statutory holiday pay. Vesuvius claimed that Boyd was the kitchen "manager" and therefore was not entitled to overtime or statutory holiday pay.

HEARING

The hearing commenced and evidence was given by Mr Petropoulos. After a recess it was decided by the parties to hold some "without prejudice" discussions. This process was aided by the delegate and resulted in a settlement agreement being reached.

It was agreed that Vesuvius would pay to Boyd, on a without prejudice basis, the some of twelve hundred (\$1200.00) dollars net of tax and any statutory deductions required. In light of the settlement, the Determination is no longer required.

ORDER

I order, under section 115 of the *Act*, that the Determination is cancelled.

John M. Orr
Adjudicator
Employment Standards Tribunal