

**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-

Transcom Terminals (1996) Inc.

(“Transcom”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 97/875

**DATE OF DECISION:** March 11th, 1998

**DECISION**

**OVERVIEW**

This is an appeal brought by Transcom Terminals (1996) Inc. ("Transcom") pursuant to section 112 of the *Employment Standards Act* (the "Act") from a Determination issued by the Director of Employment Standards (the "Director") on November 7th, 1997 under file number 076862 (the "Determination").

The Director determined that Transcom owed four former employees--Les Tallosi ("Tallosi"), Todd Bailey ("Bailey"), Tim Smorang ("Smorang") and Ande Alexander ("Alexander")--a total sum of \$4,366.33 on account of unpaid wages. All four employees were found to be owed vacation pay. In addition, Tallosi was held to be entitled to one weeks' wages as compensation for length of service and Alexander was held to be owed regular wages and statutory holiday pay.

Two appeal documents have been filed with the Tribunal, one by Geoffrey J. Edwards ("Edwards") on behalf of Transcom and another by Chris Loosley ("Loosley"). As I understand the situation, both Edwards and Loosley are directors of a firm known as Triangle Industries Ltd. which, in turn, holds 70% of the shares of Transcom. I further understand that the business operations of Transcom have now been wound up.

In a one-page document appended to his appeal form Edwards, for his part, maintains that "to the best of [my] knowledge and belief, Les Tallosi was engaged solely as a consultant, was never an employee and, as such, would not have any entitlement to compensation for length of service or vacation pay or recourse to remedies under the Employment Standards Act." Further, Edwards also says that Bailey and Smorang's "status as employees is open to challenge". Finally, Edwards asks that the Tribunal "remove my name from the Determination".

In a letter dated November 26th, 1997, appended to his appeal form, Loosley states that he is "not appealing on behalf of Transcom" but is merely "appealing to have my name removed".

**ANALYSIS**

Although invited by both the Director and the Tribunal to do so, Edwards has not presented *any* evidence in support of his assertion that Tallosi, Bailey and Smorang were not employees of Transcom. On the other hand, the Director has presented various Transcom documents that tend to corroborate her position that the three gentlemen in question were employed by Transcom.

Although the Determination is addressed to Transcom c/o Edwards, Loosley and Ken March, none of these three gentlemen is named as a party liable under the Determination (say, by reason of section 96 of the *Act*). Accordingly, I have no jurisdiction to deal with the requests of Edwards and Loosley to "remove their names from the Determination". Lest they have any further concern, let me reiterate, neither of them has been named as a party liable under the Determination and,

accordingly, they currently have no liability whatsoever to any of Tallosi, Bailey, Smorang or Alexander.

**ORDER**

Pursuant to section 115 of the *Act*, I order that the Determination in this matter be confirmed as issued in the amount of **\$4,366.33** together with whatever further interest that may have accrued in accordance with section 88 of the *Act* since the date of issuance.

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**Kenneth Wm. Thornicroft, *Adjudicator***  
**Employment Standards Tribunal**