

**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 -

J. Chris Boehm and Donald Simmons  
("Boehm and Simmons")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** David Stevenson

**FILE NO.:** 96/144 and 96/145

**DATE OF DECISION:** May 22, 1996

**DECISION**

**OVERVIEW**

This decision addresses two appeals brought under Section 112 of the *Employment Standards Act* (the "Act") from Determinations of the Director of Employment Standards (the "director"), one by J. Chris Boehm ("Boehm"), appealing Determination No.

DDET 000069, dated February 5, 1996, and the other by Donald Simmons ("Simmons"), appealing Determination No. DDET 000093, also dated February 5, 1996. Since both appeals are based on identical facts and raise the same issue, they have been consolidated.

## **FACTS**

Boehm and Simmons were both directors and officers of Dannburg Floors Richmond Ltd. ("Dannburg"). On October 10, 1995 Dannburg was placed into receivership and its four remaining employees were terminated. At the time of termination the employees had earned wages, which included salary from October 1, 1995 to October 10, 1995, commissions and vacation pay entitlements. A delegate of the director issued Determinations against Boehm and Simmons, the directors and officers of Dannburg, in the amount of \$5982.75. That amount does not exceed the maximum statutory liability imposed on directors and officers under the *Act*.

The substance of both appeals are the same. Boehm and Simmons say they always made their best efforts to ensure the employees were paid and the intervention of the receivership prevented them from doing so in October, 1995. They say the wage claims should stand against the company.

## **ISSUE TO BE DECIDED**

The single issue here is the liability of Boehm and Simmons, the directors and officers of the employer, for the wage claims.

**ANALYSIS**

Section 96(1) of the *Act* states:

96. (1) A person who was the director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months unpaid wages for each employee.

All of the wages claimed and ordered payable by Boehm and Simmons were earned while they were directors and officers of Dannburg. The *Act* is clear. In such circumstances they are personally liable. The best efforts of Boehm and Simmons to meet their statutory obligations while in control of Dannburg are laudable but do not relieve them of the personal liability for unpaid wages earned by employees of Dannburg while the two of them were directors and officers.

The appeals are dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the two Determinations, No. 000069 and No. 000093, be confirmed.

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**David Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**

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