

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 -

Sukden S. Tara and Manmohan Kalsi known as Jim Kalsi
operating as Stylo Manufacturing
("Stylo Manufacturing" or the "Employer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Ib S. Petersen

FILE NO.: 99/3

DATE OF DECISION: April 7, 1999

DECISION

APPEARANCE

Mr. Sukhjinder S. Grewal counsel for Mr. Naranjan S. Rayat (“Rayat”)

OVERVIEW

This is an appeal by the Employer pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”), against a Determination of the Director of Employment Standards (the “Director”) issued on December 14, 1998. The Determination found that Rayat was an employee of Stylo Manufacturing between March 12, 1997 and May 12, 1998 and that he was entitled to regular wages, overtime pay, statutory holiday pay, annual vacation pay and interest in the amount of \$19,718.27.

The Employer claims that the Determination is wrong. The Employer says that Rayat was not an employee but rather an independent contractor.

ANALYSIS

A hearing was held on March 25, 1999. The Employer, who is the appellant in this matter, has the burden to prove the Determination wrong. Although duly notified, the Employer did not appear at the hearing. The issues in dispute relate largely to factual allegations and credibility: that there was an agreement between Rayat and the Employer to the effect that the former was a “sub-contractor”, as opposed to an employee, and that the relationship was such that Rayat could properly be characterized as an independent contractor. In the result, I dismiss the appeal.

ORDER

Pursuant to Section 115 of the *Act*, I order that Determination in this matter, dated December 14, 1998 be confirmed in the amount of \$19,718.27 together with such interest as may have accrued.

Ib Skov Petersen
Adjudicator
Employment Standards Tribunal