

**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-

Light Ideas Ltd.  
and  
City Lights Ltd.

(the “Employer”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 97/932

**DATE OF HEARING:** March 30th, 1998

**DATE OF DECISION:** April 15th, 1998

## DECISION

### APPEARANCES

Brian Rudy	Counsel for Light Ideas Ltd. and City Lights Ltd.
James Akitt	on his own behalf
Audrey Danchak	on her own behalf
Chauncey Owen	on his own behalf
Robert Anthony Reid	on his own behalf
No appearance	for the Director of Employment Standards

### OVERVIEW

This is an appeal brought by Light Ideas Ltd. and City Lights Ltd. (the “employer”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on December 5th, 1997 under file number 085-220 (the “Determination”). The Director determined that the employer owed five former employees a total sum of \$21,465.61 including interest (see section 88 of the *Act*). The particulars of the five employees’ entitlements, as set out in the Determination, are as follows:

<u>Employee</u>	<u>Amount owed</u>	<u>Reason</u>
James Akitt	\$ 588.78	Termination pay
Allen Amundson	\$ 423.92	Termination pay
Audrey Danchak	\$ 471.02	Termination pay
Chauncey Owen	\$ 3,221.42	Termination pay, vacation pay, regular wages
Robert Reid	\$16,760.47	Termination pay, vacation pay, regular wages

After the appeal in this matter had been filed, the Director’s delegate advised the Tribunal, by way of a memorandum dated January 12th, 1998, that Robert Reid’s unpaid regular wage claim was incorrectly determined to be \$13,668.56 when, in fact, this aspect of his claim amounted to \$11,959.99. Thus, Robert Reid’s adjusted claim totalled \$15,016.77 and the total adjusted amount due under the Determination should have been \$19,721.91.

The employer's appeal was scheduled to be heard at the Tribunal's offices in Vancouver on March 30th, 1998. The employer was represented by legal counsel, Mr. Brian Rudy, and four of the five employees (all but Allen Amundson) appeared on their own behalf. The Director was not represented at the appeal hearing.

### **ISSUE TO BE DECIDED**

In the course of his opening statement, counsel for the employer advised that the employer was not challenging the Director's determination that Light Ideas Ltd. and City Lights Ltd. were "associated corporations" as defined by section 95 of the *Act*. Further, counsel also advised that the employer was not challenging the Determination with respect to the wage claims of James Akitt, Allen Amundson, Audrey Danchak and Chauncey Owen. Thus, the only matter in issue before me is the unpaid wage claim of Robert Reid ("Reid").

### **ORDER**

Prior to hearing any evidence with respect to the employer's appeal of the Determination vis-à-vis Reid, those two parties agreed to explore the possibility of resolving the dispute and following some discussions were able to do so.

The parties requested that the Tribunal issue the the following order, by consent, with respect to the employer's appeal of the Determination as it relates to Reid:

- i) The Employer will pay to Reid the sum of \$10,000 (ten thousand dollars) in full and final settlement of all of his claims for unpaid wages or any other claims arising under the *Act*;
- ii) The settlement funds shall be paid directly to Reid in four equal installments of \$2,500 (two thousand five hundred dollars) payable on April 15th, 1998, May 15th, 1998, June 15th, 1998 and July 15th, 1998;
- iii) The employer shall deliver four post-dated cheques, reflecting the amounts set out in paragraph ii, above, subject to statutory deductions, to Reid's North Vancouver residence on or before Noon on Wednesday, April 1st, 1998;
- iv) It is understood and agreed that the settlement funds represent reimbursement for expenses incurred by Reid (\$6,000) and unpaid wages owed to Reid (\$4,000) and that the payments made on account of unpaid wages will be paid net of appropriate statutory deductions.

Pursuant to section 115 of the *Act*, I order that the Determination now under appeal be confirmed as issued with respect to the claims of James Akitt, Allen Amundson, Audrey Danchak and

Chauncey Owen together with whatever further interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance. The Determination is also confirmed as to the finding that the employer firms were “associated corporations” under section 95 of the *Act*. The Determination is varied to reflect an amount owing to Robert Reid of \$10,000 payable on the terms and conditions set out above.

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