

An appeal

- by -

Khowutzun Heritage Centre Ltd. operating as  
Quw'utsun Cultural & Conference Centre  
("QCCC")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act* R.S.B.C. 1996, C.113

**ADJUDICATOR:** James Wolfgang

**FILE No.:** 2001/852

**DATE OF HEARING:** March 21, 2002

**DATE OF DECISION:** April 29, 2002

## INTERIM DECISION

### APPEARANCES:

Misty Williams	Representing Khowutzun Heritage Centre
Francine Peter	Representing Khowutzun Heritage Centre
Lana Pagaduan	Representing Khowutzun Heritage Centre
Paul Rice	Representing himself
Beth Lyle	Representing Director of Employment Standards
Luciana Brasil	Council for Khowutzun Heritage Centre

### OVERVIEW

This is an appeal by Khowutzun Heritage Centre Ltd operating as Quw'utsun Cultural & Conference Centre ("QCCC") pursuant to Section 112 of the *Employment Standards Act (the "Act")* of a Determination issued by the Director of Employment Standards (the "Director") dated November 02, 2001. The Determination found QCCC had failed to pay for wages, overtime, statutory holiday pay and compensation for length of service. It found violations of Section 18(1), Section 40(1), Section 45, Section 58(3) and Section 63(1) of the *Employment Standards Act* and determined QCCC owed Paul Rice ("Rice") and Colleen Jimmy ("Jimmy") \$2477.64 for overtime, statutory holiday pay, vacation pay, compensation for length of service and interest. Rice was entitled to \$1,044.97 and Jimmy was entitled to \$1,432.70.

QCCC is appealing on the grounds all monies owed Rice and Jimmy had been paid and in fact in some cases they were paid above that specified by the Determination.

There was no penalty imposed as the Determination indicated the "management team that created these problems has been replaced. Since this change the employer appears to be making a concerted effort to comply with the Act and Regulations."

Jimmy did not attend the hearing.

### ISSUE

Are Rice and Jimmy entitled to the amount awarded in the Determination?

### THE FACTS

There has been a change in the management structure of QCCC. The previous administration had failed to keep proper records of hours worked, at least in the case of Rice. It became evident the information

supplied to the Delegate and to the Tribunal varied and in fact was different than the evidence adduced at the hearing.

At the conclusion of the formal hearing it was agreed QCCC should now be able to produce a much more accurate set of the facts in the case. It was mutually agreed the matter should be referred back to QCCC and the Branch to prepare an accurate record of the facts.

As a result there is no point in reporting the facts and argument presented at the hearing at this time.

## **ORDER**

In accordance with Section 115 of the *Act* I refer the Determination by the Director dated November 02, 2001 back to the Branch and they are to work with the QCCC in preparing an accurate record of facts in the case. I will remain seized of the case and in the event they are unable to finalize the matter to the satisfaction of the Branch and QCCC the matter shall be set for re-hearing.

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**James Wolfgang**  
**Adjudicator**  
**Employment Standards Tribunal**