

**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 -

Robin Fok, Director/Officer  
China Max Seafood Restaurant Ltd.  
("Fok")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**Adjudicator:** Hans Suhr

**File No.:** 98/125

**Date of Decision:** April 29, 1998

## **DECISION**

### **OVERVIEW**

This is an appeal by Teresa Kam Yee Lai on behalf of Robin Fok (“Fok”) Director/Officer of China Max Seafood Restaurant Ltd., under Section 112 of the *Employment Standards Act* (the “Act”), against a Determination dated February 4, 1998 issued by a delegate of the Director of Employment Standards (the “Director”). The Director’s delegate concluded that pursuant to Section 96 of the *Act*, Fok, as a Director/Officer of China Max Seafood Restaurant Ltd. was personally liable for the amounts listed in the Determination.

The appeal on behalf of Fok does not dispute the Determination as issued, rather, Fok appears to be merely offering an explanation for not providing payment of the amount of the Determination.

### **ISSUE TO BE DECIDED**

The issue to be decided in this appeal is whether the Determination should be confirmed?

### **FACTS**

The appeal on behalf of Fok does not dispute the facts or the merits of the Determination. The letter accompanying the appeal merely offers explanation of why no payment of the amount of the Determination has been provided.

The submission by one of the affected employees, Betty T.Y. Ho (“Ho”) makes the point that the material provided on behalf of Fok does not challenge either the facts or the merits of the Determination.

### **ANALYSIS**

An appeal of a Determination issued by the Director must contain, in my view, at the very least, some statement of which facts are in dispute. Neither the appeal document itself nor the accompanying letter raise any issue with the facts outlined in the Determination. The only position of the appellant is that they have no money with which to pay the amount of the Determination.

While the lack of financial resources on the part of the appellant to pay the amount of the Determination is unfortunate, such a lack is not, in and of itself, sufficient grounds for a successful appeal of the Determination.

Based on the material provided, I conclude that the Determination was issued in an appropriate manner and further conclude that the appeal must be dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order that the Determination dated February 4, 1998 be confirmed in the amount of **\$9,975.64** together with whatever further interest may have accrued, pursuant to Section 88 of the *Act*, since the date of the issuance.

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**Hans Suhr**  
**Adjudicator**  
**Employment Standards Tribunal**