

An appeal

- by -

Wiremix Media Inc. A division of NextLevel.Com Inc.
("Wiremix")

- 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: David B. Stevenson

FILE No.: 2002/017

DATE OF DECISION: April 30, 2002

DECISION

OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”) by Wiremix Media Inc. A division of NextLevel. Com Inc. (“Wiremix”) of a Determination that was issued on January 15, 2002 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that Wiremix had contravened Part 8, Section 63 of the *Act* in respect of the employment of Sachiko Fujisawa, Andrew Quan and Sky Schumacher and ordered Wiremix to cease contravening and to comply with the *Act* and to pay an amount of \$3,770.01.

Wiremix says the employer responsible for the wages owing is wrongly named; that Wiremix Media Inc. is not a division of NextLevel.Com Inc. This appeal seeks to have the Determination varied to identify the entity that is actually liable. The real objective of the appeal is to have the Tribunal find that Wiremix is not liable for length of service compensation for Sky Schumacher, contending he had no relationship with Wiremix, but was a NextLevel Contractor.

ISSUE

The issue in this appeal is whether Wiremix has shown the Determination was wrong in a manner that justifies the intervention of the Tribunal under Section 115 of the *Act* to cancel or vary the Determination, or to refer it back to the director.

ARGUMENT AND ANALYSIS

The Director has issued a previous Determination finding the correct name of the entity responsible for the payment of wages owed under the *Act* is Wiremix Media Inc. A division of NextLevel.Com Inc. that Determination was appealed and dismissed by the Tribunal in *Wiremix Media Inc.*, BC EST # D688/01. Reconsideration of that decision was requested and denied by the Tribunal in *Wiremix Media Inc. A division of NextLevel.Com Inc.*, BC EST # RD075/02. This appeal raises exactly the same issue that was raised, and disposed of, by the Tribunal in those decisions. The Determination at issue in this appeal considered the effect of the previous proceedings and concluded:

As there is a Determination stating that the correct name of the employer is Wiremix Media Inc. A division of NextLevel.Com Inc. and that Determination was upheld by the Tribunal, and without any evidence regarding the Employer’s correct name, I will continue to refer to the company as Wiremix Media Inc. A division of NextLevel.Com Inc. In the event that Wiremix Media Inc. is not a division of NextLevel.Com Inc. I will write a Determination associating the company.

Nothing in the appeal compels me to conclude that the Determination is wrong or that the Tribunal should look at this issue yet once again.

The appeal is dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determination dated January 15, 2002 be confirmed in the amount of \$3,770.01, together with any interest that has accrued pursuant to Section 88 of the *Act*.

David B. Stevenson
Adjudicator
Employment Standards Tribunal