

EMPLOYMENT STANDARDS TRIBUNAL

In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act S.B.C. 1995, C. 38

- by -

DRT Reasources Ltd.
("DRT")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Geoffrey Crampton

FILE NO.: 96/232

DATE OF DECISION: **July 19, 1996**

DECISION

OVERVIEW

This is an appeal by DRT Resources Ltd. (“DRT”), pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against Determination No. CDET 001512 which was issued by a delegate of the Director of Employment Standards on March 11, 1996. That Determination shows DRT owes wages to Cherry Yue Chun Xie (“Xie”) for the period December 6, 1994 to August 5, 1995. This is also an appeal by five officers/directors of DRT against the Determinations listed below:

<u>Determination #</u>	<u>Person Named</u>	<u>Amount</u>
DDET 000166	Leo Pak Liang Chan	\$4,277.45
DDET 000167	Wayne Chan	\$4,277.45
DDET 000169	Michael Ginn	\$4,277.45
DDET 000170	Phillip Toy	\$4,277.45
DDET 000171	James Walker	\$4,277.45

Each of the persons named above is shown as a director/officer of DRT on the relevant determination.

I have completed my review of the written submissions made on behalf of DRT and its directors/officers as well as the information provided by the Director’s delegate.

ISSUE TO BE DECIDED

What is the amount of wages owed by DRT to Xie?

FACTS

Determination No. CDET 001512 shows that Xie was employed by DRT from March 14, 1994 to August 5, 1995 at a salary of \$2,000.00 per month. It also states that Xie was not paid wages for the period December 6, 1994 to August 5, 1995.

DRT's appeal asserts the following:

1. *During at least two months, advances were provided to this employee against salary.*
2. *For one month, this person was on holiday.*
3. *Person was involved in an auto accident and did not work for a period of time.*
4. *During at least two months, employment was part-time.*

In a letter dated April 30, 1996, James Walker states that he is "...writing on behalf of the directors and secretary/treasurer of DRT Resources Ltd. in regard to this Appeal." The letter contains the following statement:

"Due to the non-payment of a bill that was incurred with a public accountant, this firm is withholding our financial records. This has impeded our ability to provide specific detail that is relevant to this matter. However, in our meeting, the directors do agree with the statements as submitted in the Appeal Declaration."

In a letter dated June 18, 1996 to the Tribunal, DRT restates its "Reasons for Appeal" and concludes with the following:

We are not disputing that monies are owed to Mrs. Xie but rather the amount based on the information provided herein.

ANALYSIS

The appellant, DRT, bears the onus of showing why the Determination is wrong.

DRT has not provided any documents or records to support the assertions made in its appeal.

James Walker's letter of April 30, 1996, on behalf of DRT and its directors/officers, contains an express statement that it is "...withholding (our) financial records." This was confirmed in Walker's letter dated June 18, 1996.

The Tribunal provided to DRT a copy of all relevant documents which had been submitted to it by the Director's delegate and by Xie. DRT and its directors/officers were given a reasonable opportunity to reply.

In the absence of any substantive evidence to contradict the findings made by the Director's delegate in the Determinations, there are no grounds on which I can vary or cancel the Determinations.

ORDER

I order, pursuant to Section 115 of the *Act*, that the following Determinations be confirmed:

<u>Determination #</u>	<u>Person Named</u>	<u>Amount</u>
DDET 000166	Leo Pak Liang Chan	\$4,277.45
DDET 000167	Wayne Chan	\$4,277.45
DDET 000169	Michael Ginn	\$4,277.45
DDET 000170	Phillip Toy	\$4,277.45
DDET 000171	James Walker	\$4,277.45
CDET 001512	DRT Resources Ltd.	17,109.80

Geoffrey Crampton
Chair
Employment Standards Tribunal

GC:sf