

An appeal

- by -

Aaron Meyer, a Director or Officer of Aaron Meyer Communications Inc.
("Meyer")

- 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: Kenneth Wm. Thornicroft

FILE No.: 2002/058

DATE OF DECISION: May 7, 2002

DECISION

APPEARANCES:

This is an appeal filed by Aaron Meyer (“Meyer”) pursuant to section 112 of the *Employment Standards Act* (the “*Act*”). Mr. Meyer appeals a Determination that was issued by a delegate of the Director of Employment Standards (the “Director”) on January 16th, 2002 (the “Determination”). By way of the Determination, the Director’s Delegate ordered Mr. Meyer to pay the sum of \$982.33 to Renee Smitherman (“Smitherman”) on account of unpaid wages and section 88 interest.

The Determination now under appeal was issued against Meyer pursuant to section 96 of the *Act* on the basis that Meyer was a director and officer of Aaron Meyer Communications Inc. when this latter firm became liable to pay wages to Ms. Smitherman. A separate Determination was issued against Aaron Meyer Communications Inc. on January 15th, 2002 ordering that firm to pay Ms. Smitherman \$982.33. Aaron Meyer Communications Inc. appealed that latter determination, inter alia, on the ground that Ms. Smitherman was never employed by Aaron Meyer Communications Inc.

By way of a letter dated April 10th, 2002, the parties were advised by the Tribunal’s Vice-Chair that this appeal would be adjudicated based on the parties’ written submissions and that an oral hearing would not be held (see section 107 of the *Act* and *D. Hall & Associates v. Director of Employment Standards et al.*, 2001 BCSC 575).

FINDINGS AND ANALYSIS

Mr. Meyer does not dispute his status as an officer or director of Meyer Communications during the relevant time period. However, in reasons for decision that are being issued concurrently with this decision [see BC EST # D176/02], I held that Ms. Smitherman did not provide any employment services to Aaron Meyer Communications Inc. during June and July, 2000 (the period spanned by her unpaid wage claim). Accordingly, I cancelled the January 15th determination issued against Aaron Meyer Communications Inc.

In light of my findings in the corporate appeal, it follows that Mr. Meyer cannot be held personally liable to Ms. Smitherman under section 96 of the *Act*.

ORDER

Pursuant to section 115 of the *Act*, I order that the Determination be cancelled.

Kenneth Wm. Thornicroft
Adjudicator
Employment Standards Tribunal