



An appeal

- by -

Century Royale Apts. Ltd and Empire-International Investments Corporation
and Country Club Estates Ltd. and Park Regency Apartments Ltd., operating as
The Empire Group
(the “employer” or the “appellant”)

- 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.: 2000/821

DATE OF HEARING: March 27, 2001

DATE OF DECISION: April 26, 2001

DECISION

APPEARANCES:

Terence W.T. Yu, Barrister & Solicitor for the appellant

Kael Campbell, Employment Standards Officer for the Director of Employment Standards

OVERVIEW

This is an appeal brought by Century Royale Apts. Ltd., Empire-International Investments Corporation, Country Club Estates Ltd., and Park Regency Apartments Ltd. operating as the “Empire Group” (the “employer” or the “appellant”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by a delegate of the Director of Employment Standards (the “Director”) on November 8th, 2000 under file number 004-465 (the “Determination”).

By way of the Determination the Director levied a \$150 monetary penalty against the appellant pursuant to section 98 of the *Act* and section 29 of the *Employment Standards Regulation*. As detailed in the Determination, the penalty was issued for a second contravention of section 21 of the *Act* which prohibits wage deductions other than those deductions authorized by the *Act*.

This appeal was heard at the Tribunal’s offices in Vancouver on March 27th, 2001 along with two other appeals of wage determinations that were also filed by the employer. After I heard the evidence and submissions relating to the other two appeals, both Mr. Yu, for the appellant, and Mr. Campbell, for the Director, indicated that they were content to rely on their respective written submissions that had previously been filed with the Tribunal.

FINDINGS AND ANALYSIS

On March 11th, 1998 a delegate of the Director assessed a \$0 penalty against two of the appellant companies--Empire-International Investments Corporation and Country Club Estates Ltd.--on the basis that the two companies had made unlawful deductions from the wages of Mr. Ron Zelinski. The two companies did not, so far as I can gather, specifically appeal the \$0 penalty, however, an appeal of the “Zelinski” determination (which, I suppose, by inference, also constituted an appeal of the penalty) was dismissed (B.C.E.S.T. Decision No. D263/99).

On November 8th, 2000 a Director’s delegate issued a determination against the appellant companies ordering them to pay certain monies to a former employee, Ms. Christine Abrams. This latter determination included recovery of unlawful wage deductions. The appellant companies had previously been declared to be “associated corporations” under section 95 and thus they constituted one person for purposes of the *Act*. The appellant companies appealed the Abrams determination, however, I have now issued reasons for decision confirming that the

appellants made unlawful wage deductions. Accordingly, as matters now stand, the employer has been found, on at least two occasions, to have contravened the unauthorized wage deduction provisions of the *Act* (see sections 21 and 22) resulting in penalties being issued.

Section 29(2)(b) of the *Regulation* provides for a \$150 penalty for a second contravention of a “specified provision”. Sections 21 and 22 are so specified in Appendix 2 of the *Regulation*.

In light of the foregoing, this appeal is without merit and must be dismissed.

ORDER

Pursuant to section 115 of the *Act*, I order that the \$150 penalty Determination be confirmed as issued.

KENNETH WM. THORNICROFT

Kenneth Wm. Thornicroft
Adjudicator
Employment Standards Tribunal