

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 -

Nacel Properties Ltd.
("Nacel")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 98/177

DATE OF DECISION: April 29, 1998

DECISION

OVERVIEW

This is an appeal by Nacel Properties Ltd. (“Nacel”) under Section 112 of the *Employment Standards Act* (the “Act”) against a Determination which was issued by the Director of Employment Standards (the “Director”) on February 25, 1998.

By way of the Determination, the Director issued a \$500.00 penalty pursuant to Section 28 of the *Employment Standards Regulation* for failure to comply with a demand for production of employment records.

ISSUE TO BE DECIDED

Should the Determination be cancelled?

FACTS

On November 14, 1997 a Demand for Employer Records was issued by a delegate of the Director against Nacel. Nacel did not provide any records. A further Demand for Employer Records was issued on February 24, 1998 with a requirement that the records be produced by March 10, 1998. Those records were received by the Director on March 10, 1998.

The penalty issued by the Director on February 25, 1998 concerns Nacel’s failure to comply with the first Demand for Employer Records.

Eileen Noske, on behalf of Nacel, appealed the Determination on March 20, 1998. In the appeal she stated:

Terralynn Thompson is absent from the office today, she will contact you on Monday, March 23, 1998.

We are of the understanding that the documents that were needed to make a determination did not exist.

We did not receive this Determination until today March 20, 1998.

We wish to appeal this Determination to give us more time to fully look for any documents that may exist.

We have been contacted by W.C.B., Kenneth Smith is filing a claim for duiring the period he stated that he worked for Nacel Properties. Ltd.

In a reply dated April 15, 1998 the Director's delegate states that she confirmed receipt of the November 14, 1997 Demand for Employer Records with Terralyn Thompson on that day. She further states that Nacel has not supplied sufficient reasons for the appeal and accordingly the appeal should be dismissed.

Nacel was provided with the opportunity to reply to the delegate's submission dated April 15, 1998. No reply was received from Nacel, nor did Ms. Thompson ever contact the Tribunal.

ANALYSIS

Section 28 of the Employment Standards Regulation provides for a \$500.00 penalty if employment records are not produced as and when required by the Director.

I am satisfied that the Demand for Employer Records dated November 14, 1997 was properly issued and received by Nacel on that day. Nacel failed to produce the requested records as and when required by the Director.

There is nothing in the material before me to suggest that the Determination ought to be cancelled.

The information provided by Nacel does not disclose any valid reason to justify the cancellation of the Determination.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination dated February 25, 1998 be confirmed.

**Norma Edelman
Registrar
Employment Standards Tribunal**