### BC EST #D193/99

# **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 -

Irene Brown, director of Moresby Island SilvicultureLtd. ("Brown")

- of a Determination issued by -

The Director of Employment Standards (the "Director")

<b>ADJUDICATOR:</b>	Ib S. Petersen
FILE NO.:	199/139
DATE OF DECISION:	May 6, 1999

### BC EST #D193/99

#### DECISION

#### **APPEARANCES/SUBMISSIONS**

Ms. Irene Brown

on behalf of herself

#### **OVERVIEW**

This decision concerns an appeal by Brown pursuant to Section 112 of the *Employment Standards Act* (the "*Act*"), against a Determination of the Director of Employment Standards (the "Director") issued on February 16, 1999 against Brown as a director of Moresby Island Silviculture Ltd. (the Employer) for a total of \$2,243.12 owing to two employees on account of wages and vacation pay.

#### FACTS AND ANALYSIS

Brown argues that the Determination is wrong:

- 1) She is no longer a director of the Employer. She resigned by letter to Registrar of Companies on February 26, 1998.
- 2) She says that she has not been involved with the Employer since 1994. I understand from her submission that she left for marital reasons. She states that the lawyer whom she consulted did not advise her to resign as a director of the Employer.

Section 96 of the *Act* provides (in part):

96(1) A person who was a director or officer of a corporation at the time wages of an employee were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.

Section 96 of the *Act* provides that directors and officers may be liable for up to two month's unpaid wages for each employee, if they were directors or officers at the time the wages were earned or should have been paid. The Determination explains that the two employees were employed by the Employer in 1997, *i.e.*, prior to Brown's resignation as a director. While I have considerable sympathy for Brown's position, that she was not involved with the Employer since 1994, the *Act* does not distinguish between active and inactive directors. In the result, the appeal must fail.

## ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination in this matter, dated February 16, 1999 be confirmed.

Ib Skov Petersen Adjudicator Employment Standards Tribunal