

**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 -

Pawan Bains  
("Bains")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** David Stevenson

**FILE NO.:** 98/193

**DATE OF DECISION:** May 13, 1998

**DECISION**

**OVERVIEW**

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Pawan Bains (“Bains”) of a Determination of a delegate of the Director of Employments Standards (the “Director”) dated March 6, 1998. In that Determination, the Director concluded Bains was a director/officer of California Custom Auto Body 1995 Ltd. and pursuant to Section 96 of the *Act* was personally liable for wages found to be owing to two former employees of California Custom Auto Body 1995 Ltd., Harpreet Singh Sohl and Rajeshwar Sharma, in an amount of \$2288.90.

**FACTS**

On October 10, 1997 the Director issued a Determination against California Custom Auto Body 1995 Ltd. in an amount of \$2288.90 for wages in respect of the employment of two former employees, Harpreet Singh Sohl and Rajeshwar Sharma. That Determination was appealed and was upheld (see BC EST #D582/97).

A search of the records of the Registrar of Companies revealed that during the period of time that wages were payable to the two former employees, Bains was a director/officer of California Custom Auto Body 1995 Ltd. That finding is not appealed. As a result of the conclusion that Bains was a director/officer of California Custom Auto Body 1995 Ltd., the Determination which is the object of this appeal was issued. In reply to the key factual conclusion, that Bains was a director/ officer of a corporation liable to pay wages, Bains says that he is “not the only director of the company”.

Bains also says he has uncovered some “new information” concerning Rajeshwar Sharma, but it is not included with the appeal and the description given to it by Bains indicates it is not, in any event, relevant to either Determination and does not assist him in advancing his appeal.

**ANALYSIS**

Section 96(1) of the *Act* applies to the facts of this case. It says:

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

The *Act* does not indicate the liability of directors and officers of a corporation is a joint liability or that all directors and officers must be allotted some liability. There may be

sound reasons why the Director would seek to make one or more of the directors/officers personally liable for unpaid wages, while not seeking the same result with others. Bains' appeal on that point is without merit. Nothing else in the appeal establishes any reason to cancel or vary the Determination and, accordingly, it is dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination of the Director, dated March 6, 1998, be confirmed in the amount of \$2288.90 together with whatever further interest that may have accrued, pursuant to Section 88 of the *Act*, since the date of issuance.

---

**David Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**