

An appeal

- by -

Gurdev K. Bhullar, a Director or Officer of 572632 B.C. Ltd.  
("Bhullar")

- 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.:** 2002/165

**DATE OF DECISION:** May 23, 2002

## DECISION

### OVERVIEW

This is an appeal filed by Gurdev K. Bhullar (“Bhullar”) pursuant to section 112 of the *Employment Standards Act* (the “*Act*”). Bhullar appeals a Determination that was issued by a Delegate of the Director of Employment Standards (the “Director”) on March 1st, 2002 (the “Determination”) pursuant to section 96(1) of the *Act* which provides as follows:

#### **Corporate officer’s liability for unpaid wages**

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 Director’s Delegate determined that Bhullar was liable for \$2,514.24 in unpaid wages owed to Jie Li (“Li”), a former employee of 572632 B.C. Ltd.

By way of a letter dated May 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).

This appeal is identical (in fact, 572632 B.C. Ltd. is identified as the appellant) to an appeal filed by 572632 B.C. Ltd. against a Determination issued against that company on November 21st, 2001. By way of this latter corporate determination, 572632 B.C. Ltd. was ordered to pay Li the sum of \$3,387.70 on account of unpaid wages (including regular wages, overtime pay, statutory holiday pay, vacation pay and one week’s wages as compensation for length of service) and section 88 interest. The lower amount in the section 96 Determination now under appeal is due to the 2-month wage liability “ceiling” provided for in section 96(1) of the *Act*.

In separate reasons for decision that are being issued concurrently with these reasons, I refused to extend the appeal period governing an appeal of the corporate determination [see section 109(1)(b)] and, accordingly, dismissed 572632 B.C. Ltd.’s appeal pursuant to section 114(1)(a) of the *Act*.

### ISSUES ON APPEAL

As noted above, Bhullar’s reasons for appeal (and all other documents) are identical to those filed in the appeal of the corporate Determination. Essentially, Bhullar says that Li is not owed any wages and that he voluntarily resigned his employment.

### FINDINGS

Ms. Bhullar does not deny that she was an officer and director of 572632 B.C. Ltd. when Li’s unpaid wage claim crystallized (nor could she given that the documentary evidence before me is conclusive on this point). In light of the dismissal of the appeal of the corporate determination, the matter of Li’s unpaid

wage claim is now *res judicata*. The only issues properly before me at this juncture are Bhullar's status (not in dispute) and the correctness of the Delegate's calculations (similarly not in dispute). Nevertheless, I have reviewed the Delegate's calculations with respect to the 2-month wage liability and they appear to be entirely correct.

Finally, I might add that, in any event, based on the material before me (or more correctly, the dearth of material before me), I could not conclude on a balance of probabilities that the delegate erred with respect to the determination of Li's unpaid wage claim. Thus, even if the quantum of Li's wage entitlement was properly before me, I would not have varied the Determination with respect to quantum.

## **ORDER**

Pursuant to sections 114(1)(c) and 115 of the *Act*, I order that the Determination be confirmed as issued in the amount of \$2,514.24 together with whatever additional interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance.

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**Kenneth Wm. Thornicroft**  
**Adjudicator**  
**Employment Standards Tribunal**