

**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 -

Cameron Capozzi, Director/Officer of 515701 B.C. Ltd.  
operating as MA Roonis

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** Ib S. Petersen

**FILE NO.:** 98/19

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

**APPEARANCES/SUBMISSIONS**

Mr. Cameron Capozzi on behalf of himself

Mr. Dave Ages on behalf of the Director of Employment Standards

**OVERVIEW**

This is an appeal by the Mr. Capozzi pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”), against a Determination of the Director of Employment Standards (the “Director”) issued on December 15, 1997 which determined that he was liable as a corporate director and officer for two months wages to former employees of 515701 B.C. Ltd. operating as MA Roonis (the “Employer”), including Mr. Daniel Frost, for a total of \$6,109.18. The amount in the Determination with respect to Mr. Frost was \$4,488.43 for the period between May 2 and July 1, 1997. A corporate determination was issued on December 11, 1997 against the Employer and this determination was not appealed. The Director’s delegate found that Mr. Capozzi was a director and officer of the Employer.

Mr. Capozzi argues the Determination is wrong. He argues that the employee, Mr. Frost, was paid in full.

**ISSUE TO BE DECIDED**

The issue to be decided in this appeal is whether the Tribunal should vary, confirm or cancel the Determination.

**ANALYSIS**

Section 96 of the *Act* provides for personal liability for corporate directors and officers. They may be liable for up to two month’s unpaid wages for each employee, if they were directors and officers at the time the wages were earned or should have been paid. Mr. Capozzi does not address any of the issues under Section 96, such as whether he was a director/officer at the material time, or whether the amount of personal liability was calculated correctly (see, for example, *Beurlinga*, BCEST #053/98). He does not deny that he was a director of the Employer at the material time. He does not take issue with the calculation.

Mr. Capozzi argues that Mr. Frost was paid in full, by cheque for \$200.00 and in the form of the (undisclosed) value of a mountain bike borrowed by Mr. Frost and subsequently stolen.. Leaving aside the requirement of the *Act* to pay wages “in Canadian currency” (Section 20(a)) and the prohibition against deductions from wages, except as permitted by the *Act* or another enactment (Section 21(1)), Mr. Capozzi’s arguments attempts to address the merits of the corporate

determination. In my view, this is not open to him. The determination against the Employer was not appealed.

In short, Mr. Capozzi does not provide any reason why the Determination should be set aside and, in the result, his appeal must fail.

**ORDER**

Pursuant to Section 115 of the Act, I order that the Determination in this matter, dated December 15, 1997 be confirmed and the amount of the Determination paid out to the employees together with such interest as may have accrued, pursuant to Section 88 of the *Act*, since the date of issuance.

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**Ib Skov Petersen**  
**Adjudicator**  
**Employment Standards Tribunal**