

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 -

Eng Lee Chin
("Chin")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 98/230

DATE OF DECISION: May 13, 1998

DECISION

OVERVIEW

This is an appeal by Eng Lee Chin (“Chin”) under Section 112 of the *Employment Standards Act* (the “Act”) against a Determination which was issued by a delegate of the Director of Employment Standards (the “Director’s delegate”) on March 18, 1998.

The Director’s delegate determined that Chin was not owed wages by his former employer, Bondar-Clegg & Co. Ltd. (“Bondar-Clegg”).

Chin filed an appeal on April 6, 1998.

This appeal was decided by way of written submissions.

ISSUE TO BE DECIDED.

Is Chin owed wages by Bondar-Clegg?

ANALYSIS

In the Determination the Director’s delegate stated the following with respect to Chin’s complaint:

In your complaint you alleged that you had been unfairly treated by the management of the company and that you were being discriminated by reason of your age and race. You claimed that your employment was subsequently terminated on January 24, 1997. You also claimed that you were owed vacation pay for the year 1995 and 1996.

On the termination of your employment, you were paid 8 weeks’ wages as compensation for length of service for the 9 years you had been employed. This is the maximum you are entitled to under the Employment Standards Act. The employer, therefore, does not owe you any more termination pay.

As for your claim that you are owed vacation pay, the payroll and vacation records of the employer, a set of which was given to you, show that you had taken all your vacation entitlement for 1995 and 1996 and you had been paid all vacation pay due. In the circumstance, I find that there is no vacation pay owing to you.

In his appeal Chin concurs that he received 8 weeks compensation for length of service. His appeal is that he does not understand why he was dismissed and he claims that he was harassed and discriminated against when he worked at Bondar-Clegg. He did not address the vacation pay issue.

The Appellant, Chin, in this appeal, bears the onus of proving that the Determination is in error. To have some prospect of meeting that onus Chin must submit some evidence or argument which challenges the material points in the Determination. When I review the Determination, Chin's appeal and the Bondar-Clegg submission, I find that this appeal is devoid of merit. Chin has not made any submission or given any evidence to challenge or controvert the findings made by the Director's delegate in the Determination. The Act clearly states that an employer's maximum liability for compensation for length of service is 8 weeks' wages. Chin was paid this amount by Bondar-Clegg. Further, there is no evidence that Chin is owed vacation pay. Finally, the Tribunal has no jurisdiction with respect to the harassment and discrimination issues raised by Chin. For these reasons I dismiss the appeal of Chin.

ORDER

I order under Section 115 of the Act that the Determination dated March 18, 1998 be confirmed.

**Norma Edelman
Adjudicator
Employment Standards Tribunal**