

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 -

Saeid Ken Mosayebi
("Mosayebi")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Richard S. Longpre

FILE No.: 97/176

DATE OF DECISION: May 26, 1997

DECISION

OVERVIEW

This is an appeal by Mr. Saeid Ken Mosayebi (“Mosayebi”), under to Section 112 of the *Employment Standards Act* (the “Act”), of a Determination dated March 4, 1997. In his investigation, the Delegate of the Director of Employment Standards (the “Director”) determined that Mosayebi was owed \$752.22 in overtime and other such payments from Sodas Restaurants Ltd.(the “Employer”). The Employer made the payment to Mosayebi. Mosayebi appeals the Determination’s conclusion arguing that the Employer owed him more back wages.

This appeal decision is based on the Mosayebi’s written submission.

ANALYSIS

Before dealing with the merits of Mosayebi’s appeal, it is necessary to deal with the appeal application itself. The Tribunal’s appeal application form requests the names and addresses of the appellant and respondent(s). The appeal form also requests “Reasons for this Appeal.”

It is useful to note the directions given under “Reasons for this Appeal.” An applicant *must* answer the following statements:

- 1) State why the Determination is wrong
- 2) Give clear reasons why you are making this appeal
- 3) State clearly what facts are in dispute; and
- 4) State clearly what remedy you are seeking from this Tribunal.

The Tribunal recognizes that submissions by employers, employees and former employees may need to be given some flexibility with respect to their formality and completeness. However, the basic obligations on a party in making an application can not be ignored.

Mosayebi’s appeal application did not fulfill the basic obligations of an appeal application. The submission says the Employer stills owes him money for overtime and statutory holiday pay. The submission says the Employer lied about the evidence. No reasons were given to support either of these allegations. Mosayebi says that the appeal is being made “in order to collect all the monies still owed me.” He does not clearly state the money he says is still owing.

I also note that the Mosayebi filed his appeal on March 15, 1997. The Employer and the Delegate were asked if they wished to make a reply submission. On March 26, 1997, the Delegate submitted a short summary of the original Determination. The summary reads in part:

The Complainant alleged that he was owed a substantive sum of money on his complaint form. Exactly how he arrived at his figures was never adequately explained to me or made clear. The Complainant admitted that he had no records other than pay slips which the Employer provided him, and were included in his complaint.

The Delegate's reply went on to review the Employer's' records that formed the basis of his decision.

The Delegate's reply was sent to Mosayebi on April 4, 1997. He was given until April 25, 1997 to respond to the Delegate's summary of facts. The Tribunal never received a reply from Mosayebi.

Mosayebi's application for appeal did not provide the Tribunal with sufficient reasons to commence his appeal. Mosayebi did not reply to the Delegate's rationale for the Determination. Overall, his appeal application provides insufficient reasons to adjudicate his application.

ORDER

Pursuant to section 115 of the *Employment Standards Act*, Determination dated March 4, 1997 is confirmed.

Richard S. Longpre
Adjudicator
Employment Standards Tribunal