

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 -

Roya Khosravi-Moghadam
("Khosravi-Moghadam")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Norma Edelman

FILE NO.: 98/238

DATE OF DECISION: May 21, 1998

DECISION

OVERVIEW

This is an appeal by Roya Khosravi-Moghadam (“Khosravi-Moghadam”) pursuant to Section 112 of the *Employment Standards Act* (the “Act”) against a Determination issued by the Director of Employment Standards (the “Director”) on April 14, 1998. The Director found that Khosravi-Moghadam was liable as a corporate director or officer of Plateau Kitchen Limited (“Plateau”) for wages to Leasa Hachey (“Hachey”) in the amount of \$246.06 including interest representing compensation for length of service. A Determination was also issued against Plateau (the “Corporate Determination”) on April 14, 1998 and it was not appealed.

Khosravi-Moghadam argues that Hachey is not entitled to compensation as she quit her job.

ISSUE TO BE DECIDED

The issue to be decided is whether the Tribunal should confirm, vary 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 months unpaid wages for each employee, if they were directors and officers at the time the wages were earned or should have been paid.

In his appeal Khosravi-Moghadam does not address any of the issues under Section 96 of the *Act*. Rather he argues that the Determination should be set aside because Hachey quit her employment. Khosravi-Moghadam’s appeal deals entirely with the findings made by the Director in the Corporate Determination. However, there is no appeal of that Determination and no reasons have been put forward for not appealing the Corporate Determination.

The appeal by Khosravi-Moghadam must be limited to the issues which arise under Section 96 of the *Act* - whether he is or was a director or officer of Plateau and/or whether the calculations of his personal liability is correct. Khosravi-Moghadam is estopped from arguing the merits of the Corporate Determination, except where there has been fraud in the issuance of the Corporate Determination or where he has cogent new evidence not previously available: (*Steinemann*, (BC EST D180/96), *Perfecto Mondo Bistro* (BC EST D205/96) and *Seacorp Properties Inc.* (BC EST D440/97). In his appeal Khosravi-Moghadam provides no allegation or evidence of fraud in the issuance of the Corporate Determination, nor does he claim that he has new evidence not previously available at the time of the issuance of the Corporate Determination.

For all these reasons, this appeal must fail.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination in this matter dated April 14, 1998 be confirmed in the amount of \$246.06 together with whatever further interest may have accrued under Section 88 of the *Act*.

Norma Edelman
Registrar
Employment Standards Tribunal