

**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-

Paradon Computer Systems Ltd.  
("Paradon" or the "employer")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 98/108

**DATE OF DECISION:** May 21, 1998

## DECISION

### OVERVIEW

This is an appeal brought by Paradon Computer Systems Ltd. (“Paradon” or the “employer”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on January 27th, 1998 under file number 64091 (the “Determination”).

The Director determined that Paradon owed its former employee, Richard J. Leblanc (“Leblanc”), the sum of \$1,386.56 on account of unpaid wages.

### ISSUES TO BE DECIDED

The employer’s appeal is based on two grounds:

- First, it seeks an order from the Tribunal “[allowing Paradon] to hold the wages owing to Mr. Richard Leblanc in escrow while we await our opportunity to resolve our damage claim with him in the court system”.
- Second, the employer says that “the amount of the Determination has been calculated incorrectly” and that Leblanc is only owed two days’ wages for December 2nd and 3rd, 1997 rather than the three days (December 1st to 3rd, inclusive) as found by the Director’s delegate.

### FACTS AND ANALYSIS

The employer concedes that Leblanc is entitled to \$846.56 on account of vacation pay as set out in the Determination. The only point of contention in terms of the quantum of the Determination is Leblanc’s wage entitlement for work in early December 1997 (2 or 3 days?). However, in a subsequent letter to the Tribunal dated April 7th, 1998, the employer advised that “we have elected not to contest this 1 day as I had already stated”. I might also note that the employer’s position on this point is uncorroborated whereas the employee’s position was corroborated by a letter from a fellow employee.

As for the principal argument raised by the employer, the simple answer is that the Tribunal has no statutory authority to make the order sought by Paradon, namely, an order holding Leblanc’s unpaid wages in escrow pending the outcome of Paradon’s provincial court action against Leblanc for damages--this latter action was filed in the provincial Small Claims Court on February 19th, 1998 and claims damages for an alleged breach of his duty of fidelity and for conflict of interest.

While the Tribunal can issue an order suspending a Determination pending appeal (see section 113 of the *Act*) it does *not* have the authority to suspend a Determination pending the outcome of some other court action between the parties.

Perhaps the provincial court, upon proper application, can order the monies owed under the Determination to be held in trust, or perhaps can order a stay of execution pending the outcome of the provincial court action--this is a matter about which I express no considered view--however, this Tribunal has no such authority.

**ORDER**

Pursuant to section 115 of the *Act*, I order that the Determination in this matter be confirmed as issued in the amount of \$1,386.56 together with whatever further interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance.

---

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