

EMPLOYMENT STANDARDSTRIBUNAL
In the matter of an appeal pursuant to Section 112 of the
Employment Standards Act

- by -

Tricom Services Inc.
("Tricom")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

A DJUDICATOR:	John McConchie
F ILE N O. :	96/269
D ATE OF H E ARING:	August 14, 1996
D ATE OF D E CISION:	August 29, 1996

DECISION

OVERVIEW

This is an appeal by Tricom Services Inc. pursuant to Section 112 of the *Employment Standards Act* (the “Act”) against Determination No. CDET 001872 issued by the Director of the Employment Standards Branch (the “Director”) and dated April 4, 1996. The Determination found that Tricom had contravened the *Employment Standards Act* by terminating the employment of the complainant Doug Finnerty without notice or compensation in lieu of notice. The Determination required Tricom to pay the sum of \$929.92 in satisfaction of Mr. Finnerty’s entitlement under the *Act*.

Tricom has appealed the Determination alleging that Mr. Finnerty gave it just cause for termination without notice or compensation in lieu of notice.

ANALYSIS

The Employment Standards Tribunal established a hearing into this matter to take place on August 28, 1996. The complainant attended the hearing, as did Employment Standards Officer Lesley Christensen. No representative from Tricom attended the hearing.

After waiting for approximately one-half hour after the time set for commencing the hearing, I was shown a telephone message on which it was indicated that a company representative had telephoned the Employment Standards Branch and advised that the company was not proceeding with the appeal. On that basis, I would confirm the initial determination. In the alternative, if it were later shown that the message was in error, it remains that the burden of proof in this proceeding is on Tricom. In the absence of any evidence or further representations from that party, I have been unable to conclude that there is any basis for disturbing the Determination.

ORDER

Pursuant to Section 115, I order that Determination No. CDET 001872 be confirmed.

John McConchie
Adjudicator
Employment Standards Tribunal

JLM:jel