

**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-

Balraj Sekhon

(“Sekhon”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 97/213

**DATE OF HEARING:** June 9th, 1997

**DATE OF DECISION:** June 11th, 1997

**DECISION**

**APPEARANCES**

Balraj Sekhon                    on his own behalf

No appearance                by CCI Scion Securities Corporation

No appearance                by Caroline Belgrave

Julie Brassington                for the Director of Employment Standards

**OVERVIEW**

This is an appeal brought by Balraj Sekhon (“Sekhon”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by the Director of Employment Standards (the “Director”) on March 4th, 1997 under file no. 082-032. The Director determined that CCI Scion Securities Corporation (“CCI”) owed its former employee, Caroline Belgrave (“Belgrave”), the sum of \$2,302.48 on account of unpaid regular wages, statutory holiday pay, vacation pay, compensation for length of service and interest.

**FACTS**

At the appeal hearing, which was conducted at the Tribunal’s offices in Vancouver on June 9th, 1997, Mr. Sekhon, who is the Western Regional Manager for CCI, indicated that he did *not* have authority to speak on behalf of CCI. Mr. Sekhon, who filed an appeal in his own personal capacity, maintains that he, rather than CCI, was Belgrave’s employer. Sekhon says that while Belgrave was employed by CCI as a mutual fund/life insurance sales representative [which employment is outside the scope of the *Act*--see subsections 31(g) and (n) of the *Employment Standards Regulation*], her clerical/administrative employment duties (*i.e.*, the very duties for which she was awarded compensation under the Determination) were undertaken on his (Sekhon’s) behalf. Further, Sekhon says that Belgrave was paid by way of personal cheques drawn on Sekhon’s own bank account.

Ms. Belgrave did not attend the hearing, although the hearing was delayed by some thirty minutes while I waited for her to appear; nor did she telephone the Tribunal or Ms. Brassington to indicate that she did not plan to attend the hearing. Accordingly, I have no evidence from Ms. Belgrave as to the identity of her employer.

Ms. Brassington advised that CCI, which is an Ontario corporation extra-provincially registered to carry on business in B.C., was served by registered mail with the Determination at its B.C. records and registered office. Further, the Determination was also forwarded by registered mail to the President and the sole Director, respectively, of CCI (both of whom are Ontario residents).

**ANALYSIS**

In light of the fact that the Determination has been issued against and properly served on CCI only, and in the absence of an appeal from CCI, I am of the view that I do not have any jurisdiction to proceed with the present appeal.

In my view, Mr. Sekhon does not have any status to appeal the Determination, or to appear on the appeal, except as an agent for CCI. However, as noted above, Sekhon claims no such agency status.

The Director has determined that CCI was the employer of record. No appeal has been filed by CCI with respect to that Determination. Sekhon's appeal, based on the argument that he, rather than CCI, is the proper employer, cannot proceed as no determination has ever been issued against Sekhon in his personal capacity.

**ORDER**

Pursuant to section 115 of the *Act*, I order that the Determination in this matter be confirmed as issued in the amount of \$2,302.48 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**