

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 -

Jasvir Bal
(the “ Appellant ”)

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Kim Polowek

FILE No.: 2000/136

DATE OF HEARING: June 7, 2000

DATE OF DECISION: June 27, 2000

DECISION

APPEARANCES

Nazeer T. Mitha
Richard Staar
Sue Oystnick
Hayra Houlihan
Dave Tucker

for Tricon Global Restaurants (Canada), Inc.

No one

for the Appellant, Jasvir Bal

No one

for the Director of Employment Standards

OVERVIEW

This is an appeal by Jasvir Bal pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”), from Determination ER#:059276 dated February 09, 2000. The Determination found the company had just cause to terminate Ms Bal and as a result the employer was discharged from the statutory liability to pay length of service compensation under Section 63 of the *Act*.

ISSUE(S) TO BE DECIDED

1. Should the appeal be dismissed as abandoned since Ms. Jasvir Bal did not attend nor was she otherwise represented at the hearing?

ANALYSIS

The Employment Standards Tribunal scheduled a hearing into this appeal for June 7, 2000 at 9:00 a.m. The hearing notice was sent to the parties dated May 02, 2000. Mr. Mitha, Mr. Staar, Ms. Oystnick, Ms. Houlihan and Mr. Tucker, on behalf of the employer, attended the hearing.

I convened the hearing at approximately 9:10 a.m. I then adjourned the hearing until 10:00 a.m. to allow time for Ms. Jasvir Bal to appear. During that period I confirmed the hearing notice was sent to the address listed by Ms. Bal on her appeal.

I am satisfied that Ms. Bal had not contacted the Employment Standards Tribunal to explain or give notice regarding her absence at the hearing.

I reconvened the hearing at 10:00 a.m. Mr. Mitha, Mr. Staar, Ms. Oystnick, Ms. Houlihan and Mr. Tucker for the employer were in attendance. Ms. Bal, the appellant in the matter, did not attend. The onus rests on Ms. Bal to convince the Tribunal on the balance of probabilities that the Director's Delegate had erred in the Determination dated February 09, 2000. I have reviewed the file material and I am not convinced based on that material that Ms. Bal has discharged the onus on her in this matter. Therefore, in accordance with the Tribunal's policy of considering appeals abandoned where the appellant fails to show at the hearing I dismiss this appeal.

ORDER

I order pursuant to Section 115 of the Act that the Determination dated February 09, 2000, ER#:059276 is confirmed.

Kim Polowek
Adjudicator
Employment Standards Tribunal