

**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-

Monica Morten

(“Morten”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 1999/129

**DATE OF HEARING:** June 17th, 1999

**DATE OF DECISION:** July 14th, 1999

**DECISION**

**APPEARANCES**

No appearance	Monica Morten
Joseph Daou	on his own behalf
Adele J. Adamic & Joanne Kembel	for the Director of Employment Standards

**OVERVIEW**

This is an appeal brought by Monica Morten (“Morten”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from a Determination issued by a delegate of the Director of Employment Standards (the “Director”) on February 10th, 1999 under file number ER76890 (the “Determination”).

The Director’s delegate determined that Calvary Publishing Corp. (“Calvary”) owed its former employee, Joseph Daou (“Daou”), the sum of \$67,909.93 on account of unpaid wages (including vacation pay and statutory holiday pay), compensation for length of service, recovery of unauthorized payroll deductions and interest.

**FACTS**

This appeal was scheduled to be heard at the Tribunal’s offices in Vancouver on June 17th, 1999 along with another appeal of the same Determination filed by Glen P. Robbins. While Mr. Robbins’ legal counsel, Mr. John Motiuk, appeared at the hearing, Ms. Morten did not. Although Ms. Morten noted on her appeal form that her address for service was Mr. Motiuk’s office, Mr. Motiuk advised me on June 17th that he did not have any instructions to act on behalf of Ms. Morten. Ms. Morten did not advise the Tribunal regarding the reason for her failure to attend the appeal hearing on June 17th, 1999.

I note that the Determination now before me was issued against Calvary only; Morten is *not* liable under the Determination for any unpaid wages owed to Mr. Daou although a copy of the Determination was mailed to her in her alleged capacity as a Calvary director or officer. Morten, in her appeal documents, does not assert that she is the authorized representative of Calvary and indeed, in her appeal documents, asserts that she is not a Calvary director. Thus, given her espoused position, it would appear that Morten would not have any authority to act on behalf of Calvary.

I understand that a determination was issued against Morten in her personal capacity in accordance with the director/officer liability provisions set out in section 96 of the *Act* but that determination

has not been appealed, as yet, to the Tribunal and the time for so doing expired quite some time ago.

**ORDER**

In light of the foregoing, and pursuant to section 114(1)(b) and (c) of the *Act*, I order that the within appeal be dismissed.

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