

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 -

Empire International Investment Corporation and
Country Club Estates Ltd.
("Empire International" and "Country Club Estates" or the "employer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Cindy J. Lombard

FILE NO.: 1999/200

DATE OF DECISION: June 29, 1999

DECISION

OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Empire International Investment Corporation and Country Club Estates Ltd. (“Empire International” and “Country Club Estates” or the “employer”) from a Determination issued on March 11, 1999, of the Director of Employment Standards (the “Director”). In that Determination, the Director found that unauthorized deductions were made by the employer, Empire International and Country Club Estates, from the wages of its former employees, Ron Zelinski and Debbie Zelinski (the “Zelinski’s”) for a partial month’s rent and apartment cleaning in contravention of Section 21(1) of the Act. The employer, Empire International and Country Club Estates, does not deny that the deductions were made but claim a right to off-set the sum of \$728.22 which they say are owed by the employees to them.

ISSUE TO BE DECIDED

The issue to be decided is whether the employer’s claim for a set-off for the half-month’s rent and apartment cleaning should be allowed.

FACTS

The Zelinski’s had been employed as property managers.

ANALYSIS

Section 21(1) of the Act states that:

“Except as permitted or required by this Act or any other enactment of British Columbia or Canada, an employer must not, directly or indirectly, withhold, deduct or require payment of all or part of an employee’s wages for any purpose.”

Section 21 is clear in its language that deduction from an employee’s wages for any purpose without his permission, which is agreed was not given in this case, is forbidden.

The employer’s proper course is to pursue any set-off in a civil claim.

ORDER

Pursuant to Section 115 of the Act, I order that the Determination with respect to the Zelinski's be confirmed as issued in the amount of \$767.55 together with whatever further interest that may have accrued pursuant to Section 88 of the Act since the date of its issue.

Cindy J. Lombard
Adjudicator
Employment Standards Tribunal