

**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 -

Daljit S. Sidhu a.k.a. Daljit S. Siddhu, a Director/Officer of  
Associated Professional Insurance Services Inc  
("Sidhu")



- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**A**DJUDICATOR: David Stevenson

**F**ILE N<sub>O.</sub>: 98/251

**D**ATE OF **D**ECISION: July 2, 1998

## DECISION

### OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Daljit S. Sidhu a.k.a. Daljit S. Siddhu, a Director/Officer of Associated Professional Insurance Services Inc. (“Sidhu”) of a Determination which was issued on April 3, 1998 by a delegate of the Director of Employment Standards (the “Director”). In that Determination the Director, acting pursuant to Section 96 of the *Act*, found Sidhu liable for unpaid wages to former employees of Associated Professional Insurance Services Inc. in an amount of \$8687.44.

### ISSUE TO BE DECIDED

The issue is simply whether Sidhu has demonstrated the Director made any error in reaching the conclusion that he was liable, pursuant to Section 96 of the *Act*, for wages owing to former employees of Associated Professional Insurance Services Inc.

### FACTS

There is no dispute relating to the facts of this appeal. I adopt the facts contained in the Determination:

A Corporate Determination issued May 2, 1997 for \$18,549.39 against Associated Professional Insurance Services Inc., was appealed and later confirmed as payable in full. A portion of the total dollars claimed against the corporation was held in trust, and has since been paid out to the former employees noted.

The amount claimed as payable by Sidhu were earned between late October, 1995 and late January, 1996. Sidhu was a Director/Officer of the corporation during that period. In his reasons for appeal, Sidhu does not deny he was a director or officer of the corporation. His appeal is based on his assertion that he had resigned as a director of the corporation and had transferred of all shares, assets and liabilities of the corporation to Kumikker S. Rangi. While the exact date of the alleged resignation is not clear from the material on file, it did not occur until after the period during which wages were earned and should have been paid.

### ANALYSIS

The relevant provision of the *Act* is subsection 96(1), which reads:

**96.** (1) *A person who was a director or officer of a corporation at the time wages of an employee of the corporation were earned or should have been paid is personally liable for up to 2 months' unpaid wages for each employee.*

Subsection (2) sets out exceptions to the liability established in the above subsection, none of which apply in this case.

The subsection is clear. The liability created by the subsection is imposed on those persons who were directors or officers of the corporation **“at the time wages . . . were earned or should have been paid”**.

Sidhu has not challenged the conclusion he was a director or officer at the time wages were earned or should have been paid. His resignation subsequent to that period does not alter his statutory liability.

The appeal is without merit and is dismissed.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination dated April 3, 1998 be confirmed.

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**David Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**