

**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-

Charlotte Bowie

(“Bowie”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 1999/286

**DATE OF DECISION:** July 13th, 1999

## DECISION

### OVERVIEW

This is an appeal brought by Charlotte Bowie (“Bowie”) 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 April 20th, 1999 under file number 091592 (the “Determination”).

The Director’s delegate dismissed Bowie’s complaint that her former employer, C.O.P.E.-Challenges of Parenting Effectively With Connections (the “employer”), owed her unpaid wages including compensation for length of service.

### ISSUE TO BE DECIDED

Bowie claims that she is entitled to be paid some \$322 in unpaid wages for the period August 16th to 18th, 1998. By way of response, the employer claims that Bowie did not work on August 17th and, in any event, Bowie’s entire claim for unpaid wages and termination pay was previously settled and a final release was executed by Bowie.

### FACTS AND ANALYSIS

Bowie was formerly employed as the employer’s Executive Director from April 1995 until her termination on or about August 18th, 1998. At the point of termination, Bowie was earning \$23 per hour. Bowie, who was represented by legal counsel, negotiated a settlement of her “wrongful dismissal” and unpaid wage claim of \$10,776.79 which amount was comprised of three months’ salary, vacation pay and certain benefits. On January 8th, 1999 the settlement was concluded with Bowie executing a full and final release in favour of the employer.

As a result of the monies paid to Bowie pursuant to the settlement agreement, she was paid, in fact, a great deal more than that to which she would have otherwise been entitled under the *Act*. Further, the clear intent of the parties’ settlement agreement and release was to effect a final resolution of her claim, including her claims for termination pay and unpaid wages. The Tribunal will not overturn *bona fide* settlements particularly when the settlement was reached after the complainant received legal advice and where the effect of the settlement is to pay the complainant something more than the minimum entitlements provided for in the *Act*--see e.g., *Small*, B.C.E.S.T. Decision No. 032/98 and *Alnor Services Ltd.*, B.C.E.S.T. Decision No. D199/99.

I note that Bowie’s claim for wages for the period August 15th to 18th, 1998 was raised with the employer prior to the settlement (see Bowie’s solicitor’s letter to the employer’s legal counsel dated October 26th, 1998) and thus this claim must logically be considered to have been concluded as part of the January 8th, 1999 settlement. Certainly, there is nothing in the release which purports to reserve Bowie’s right to claim unpaid wages for August 16th to 18th, 1998; indeed, the effect of the release is precisely the opposite, namely, all of her claims for unpaid wages and termination pay were resolved via the settlement agreement and release.

In my view, Bowie's complaint was properly dismissed under section 76(2)(g) of the *Act* and I consider this appeal to be wholly without merit.

**ORDER**

Pursuant to sections 114(1)(c) and 115 of the *Act*, I order that the appeal be dismissed and that the Determination be confirmed.

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