

**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 -

Trozzo Holdings Ltd.  
("Trozzo Holdings")

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

**ADJUDICATOR:** David B. Stevenson

**FILE No.:** 2000/256

**DATE OF HEARING:** July 4, 2000

**DATE OF DECISION:** July 20, 2000

## DECISION

### APPEARANCES

for Trozzo Holdings Ltd.

Mirella Trozzo

Gina Anna Trozzo

for the Director

Joe LeBlanc

### OVERVIEW

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”) by Trozzo Holdings Ltd. (“Trozzo Holdings”) of a Determination that was issued on March 15, 2000 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that Trozzo Holdings contravened Part 3, Section 18 of the *Act* for the second time and, under Section 98 of the *Act* and Section 29 of the *Employment Standards Regulations* (the “*Regulations*”), issued a monetary penalty of \$150.00.

Trozzo Holdings alleges there was no previous contravention of Part 3, Section 18 of the *Act*.

### ISSUES TO BE DECIDED

The sole issue in this appeal is whether Trozzo Holdings has shown there was no basis upon which a penalty Determination in the amount of \$150.00 could be issued.

### FACTS

On September 17, 1998, a Determination was issued against Trozzo Holdings in respect of the employment of Michelle Hourie in an amount of \$72.33. The Determination concluded that Trozzo Holdings had contravened Part 3, Section 18 of the *Act* and were ordered to cease contravening that provision. In the Determination, Trozzo Holdings was also assessed penalty of zero dollars (\$0.00). The Determination was properly served on Trozzo Holdings in accordance with Section 122 of the *Act*. The Determination was not appealed. The Determination was also filed in the Supreme Court of British Columbia and was again served on Trozzo Holdings. The claim was settled in September, 1999, but that settlement did not alter or affect the conclusion that Trozzo Holdings had contravened Part 3 of the *Act* or dissolve the penalty Determination.

On March 15, 2000, the Director issued a Determination against Trozzo Holdings in respect of the employment of Donovan R. Price, concluding Trozzo Holdings had contravened Part 3, Section 18 of the *Act*. That Determination was appealed and that appeal was dismissed (see *Trozzo Holdings Ltd.*, BC EST #D255/00).

### ANALYSIS

There is simply no merit to this appeal. The factual basis for the penalty imposed on Trozzo Holdings has been established and has not been challenged in any respect by Trozzo Holdings.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the penalty Determination dated March 15, 2000 be confirmed.

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**David B. Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**