

BCEST #D360/98

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 -

Canamera Geological Ltd.
("Canamera" or the "Employer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Ib S. Petersen

FILE NO.: 98/305

DECISION DATE: September 1, 1998

DECISION

APPEARANCE

Mr. Avtar Dhaliwal

on behalf of himself

OVERVIEW

This is an appeal by the Employer pursuant to Section 112 of the *Employment Standards Act* (the “Act”), against a Determination of the Director of Employment Standards (the “Director”) issued on April 23, 1998. The Determination found that Mr. Dhaliwal, who was laid off on July 11, 1997, was terminated on October 10, 1997 and, in the result, was entitled to compensation for length of service. The Determination awarded \$1,687.18 to Mr. Dhaliwal.

The Employer claims that the Determination is wrong. The Employer says that Mr. Dhaliwal had found other employment after his lay off and, therefore, had resigned. Mr. Dhaliwal states that he was ready, willing and able to work when he was recalled by his Employer.

ANALYSIS

A hearing was held on August 17, 1998. The Employer, who is the appellant in this matter, has the burden to prove the Determination wrong. Although duly notified, the Employer did not appear at the hearing. The issues in dispute relate largely to factual allegations and credibility. Mr. Dhaliwal explained that he was prepared to go to work when he was recalled. He did not resign. He also explained that he received an offer of employment on October 17 and started in that job on October 20, 1997. In the result, I dismiss the appeal.

ORDER

Pursuant to Section 115 of the Act, I order that Determination in this matter, dated April 23, 1998 be confirmed.

Ib Skov Petersen

Adjudicator

Employment Standards Tribunal