

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 -

King John's Holdings Co. Ltd.
operating as the Doll House 88 Restaurant
and John Tsang and Frances Ho
(The "Company")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Richard S. Longpre

FILE NO.: 97/261

DATE OF HEARING: July 14, 1997

DATE OF DECISION: August 21, 1997

DECISION

APPEARANCES

John York Han Tsang	for the Company
Francis Ho	for herself
Diane MacLean	for the Director

OVERVIEW

The Company appealed, pursuant to Section 112 of the *Employment Standards Act* (the “Act”), Determination No. DDET 000736. The Delegate of the Director found that the Company and Mr. John Tsang and Francis Ho, directors/officers of the Company owed a group of former employees for past wages, vacation pay and interest.

The Company operated a restaurant that stopped operating on February 12, 1997. The total amount owing to the seven employees was found to be \$8,385.86.

The appellants had not assisted the Delegate of the Director in reaching her Determination. The Delegate attended the hearing and was of great assistance in resolving these matters.

ISSUES TO BE DECIDED

First, Ho submits that she was not a director nor an officer of the Company at the relevant times. Second, the Company argues that the amount stated in the Determination is grossly overstated.

ANALYSIS

I will deal with each issue in turn. First, the Determination found that Ho was a director and therefore liable for the outstanding wages owed the seven employees. In her appeal submission, Ho submitted evidence that demonstrates the she was not a director of the Company at the time the Company ceased operating. Ho became a director of the Company on September 13, 1993. The Register of Directors demonstrates that she ceased being a director on August 22, 1996. The finding in the Determination that Ho was a director/officer of the Company on February 12, 1997 is canceled.

At the hearing and with the assistance of the Delegate, the Company was willing to provide accurate information. The Delegate subsequently met with the Company and its accountant

and provided me with accurate information on outstanding wages owed to all seven employees. Total amount of wages, vacation pay, compensation for length of service and interest can be summarized as follows:

<u>Name</u>	<u>Total Amount</u>
Chan, I	\$1,390.70
Chiang	\$1,272.07
Hsieh, W.	\$1,744.40
Sun D.	\$678.57
Sze, K.	\$643.32
Wong, W.	\$659.89
Wong, Y.	<u>\$58.66</u>
Total	\$6,447.60

The Company and John Tsang are directed to pay these amounts to the respective former employees.

ORDER

Pursuant to Section 115 of the *Employment Standards Act* the Determination's finding that Francis Ho was a director/officer of the Company is canceled.

Pursuant to Section 115 of the *Employment Standards Act* the Determination's finding of wages, vacation pay and interest owing the seven former employees of the Company is varied accordingly.

Richard S. Longpre
Adjudicator
Employment Standards Tribunal