

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 -

Shirley-Anne Zral, a Director of Battle Mountain Dev. Corp.
("Zral")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: David Stevenson

FILE NO.: 97/371

DATE OF HEARING: August 15, 1997

DATE OF DECISION: August 22, 1997

DECISION

APPEARANCES

for the appellant: no one appearing

for the individual: in person

OVERVIEW

This matter involves an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Shirley-Anne Zral, a Director of Battle Mountain Dev. Corp. (“Zral”) from a Determination of a delegate of the Director of Employment Standards (the “Director”) dated April 24 1997. The Director concluded Zral had contravened Sections 17, 34 and 40 of the *Act* in respect of the employment of Carole Hanson.

A hearing on the appeal was scheduled by the Tribunal to take place in Clearwater on August 8, 1997, commencing at 9:30 am. At the request of Zral this scheduled hearing was adjourned to August 15, 1997, commencing at the same time in the same location as the originally scheduled hearing. I am satisfied, and the records of the Tribunal confirm, Zral was informed of the new date, time and location for the hearing. She did not appear at the scheduled time and location on the date set for the hearing. Commencement of the hearing was delayed for 30 minutes. At 10:00 am the hearing was called to order.

ANALYSIS

The burden in an appeal to the Tribunal is on the appellant. The nature of that burden is to persuade the Tribunal the Determination is wrong in some material respect. In this case, the appeal is based substantially on a disagreement with the conclusions of fact made by the Director. In such circumstances, the presence of the appellant to demonstrate the errors in the Determination is essential. If the appellant fails to appear no reason exists to vary the factual conclusions made by the Director and the appeal must be dismissed.

One further comment: there were two aspects of the appeal that raised matters of interpretation and application of the *Act*. The first had to do with pay for attending a training seminar and the other with minimum daily hours of work. I have reviewed the material and have concluded, in any event, the appeal on those two points would fail on the undisputed facts applied to the requirements of the *Act*.

ORDER

Pursuant to Section 115 of the *Act*, I order the Determination dated April 24, 1997 be confirmed.

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David Stevenson
Adjudicator
Employment Standards Tribunal