

**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-

Caralis Investments Inc. operating as  
Il Forno Della Roccia Bianca

(“Caralis” or the “employer”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

**ADJUDICATOR:** Kenneth Wm. Thornicroft

**FILE No.:** 98/135

**DATE OF DECISION:** October 5, 1998

## DECISION

### OVERVIEW

This is an appeal filed by Laura Delmaestro on behalf of Caralis Investments Inc. operating as Il Forno Della Roccia Bianca (the “employer) pursuant to section 112 of the *Employment Standards Act* (the “*Act*”) from a Determination issued by the Director of Employment Standards (the “Director”) on February 11th, 1998 under file number 84-770 (the “Determination”).

### FACTS

The Director’s authorized delegate determined that Caralis owed its former employee, Richard Tompkins (“Tompkins”), the sum of \$859.78 on account of unpaid wages and interest. In a written decision issued on May 15th, 1998 (EST Decision No. D213/98) I ordered, in light of payroll information that was made available by the employer but was not apparently before the delegate during her initial investigation, that Tompkins’ complaint be referred back to the delegate for further investigation.

According to the information provided by the delegate, a demand for production of payroll records was hand delivered to the employer on June 11th, 1998 and that on June 17th the employer provided further payroll documents. These records are internally contradictory--for example, one document, the daily work schedule record, indicates that Tompkins worked a total of 342.5 hours during his period of employment (May 22nd to June 28th, 1997) whereas a computer summary printout shows his total employment hours to be 570.

However, on those employer’s own records which were not contested by Tompkins, the delegate determined that Tompkins was entitled to \$1,059.19 on account of unpaid wages and interest.

I have reviewed the delegate’s calculations and analysis and can find no error in the approach that has been taken (particularly on the issue of Tompkin’s entitlement to overtime pay).

### ORDER

Pursuant to section 115 of the *Act*, I order that Determination be varied to reflect an amount payable to Tompkins of **\$1,059.19**. In addition, Tompkins is entitled to whatever further interest that may have accrued, pursuant to section 88 of the *Ac*, since July 23rd, 1998.

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**Kenneth Wm. Thornicroft, *Adjudicator***