

An appeal

- by -

Reginald D. Gordon, a Director or Officer of Newcom Concepts Corp.

- of a Determination issued by -

The Director of Employment Standards  
(the "Director")

pursuant to Section 112 of the  
*Employment Standards Act* R.S.B.C. 1996, C.113

**ADJUDICATOR:** Norma Edelman

**FILE No.:** 2002/359

**DATE OF DECISION:** September 19, 2002

## DECISION

This matter arises out of a referral back to the Director of Employment Standards (the "Director") in Tribunal Decision BCEST #D062/02 to establish, in effect, whether Reginald Gordon ("Gordon") was an officer or director of Newcom Concepts Corp. at the time wages were earned or payable to Carrie Janni ("Janni") and Douglas Hollett ("Hollett") [collectively, the "Respondents"].

On June 17, 2002, the Tribunal received a report from the Director's delegate in which she concluded the Determination should be revoked. She stated that information provided by Gordon's counsel showed he resigned as a director on December 20, 1999. Janni was employed from January 24, 2001 to February 26, 2001 and Hollett's claim is for wages and overtime in 2000, and compensation for length of service and vacation pay that became payable on his termination of employment, which occurred after Gordon's resignation.

The Tribunal forwarded the delegate's report to Gordon, Hollett and Janni for their reply. The Tribunal received no reply.

This matter has been decided based on the written submission received from the delegate.

Neither Janni nor Hollett have challenged the delegate's conclusion regarding Gordon. I have reviewed the information relied on by the delegate in coming to her decision. The information submitted by Gordon's counsel show Gordon resigned as an officer and director on December 30, 1999, which predates the period when the Respondents' wages were earned or payable. Accordingly, I agree with the delegate that the Determination should be cancelled.

## ORDER

Pursuant to Section 115 of the Act and further to Tribunal Decision BCEST #D062/02, I order that the Determination dated November 2, 2001 be cancelled.

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**Norma Edelman**  
**Adjudicator**  
**Employment Standards Tribunal**