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 -

George S. MacDonald
("MacDonald")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE No.: 2000/542

DATE OF DECISION: October 18, 2000

DECISION

OVERVIEW

This is an appeal brought by George S. MacDonald ("MacDonald") pursuant to section 112 of the *Employment Standards Act* (the *"Act"*) from a Determination issued by a delegate of the Director of Employment Standards (the "Director") on July 20th, 2000 under file number ER 053-239 (the "Determination").

The Determination addresses the complaints of a number of former employees of L. and T. Loading Ltd. ("L. and T."), including that of Mr. MacDonald who claimed that his employment was terminated without proper written notice or payment of compensation for length of service in lieu of written notice. The delegate held that L. and T. and Richlen Holdings Ltd. ("Richlen") were "associated corporations" as defined in section 95 of the *Act* and, accordingly, were jointly and separately liable for, *inter alia*, five weeks' wages as compensation for length of service payable to MacDonald (see section 63 of the *Act*). The delegate awarded MacDonald the sum of $3,734.37 (including interest) on account of his claim for compensation for length of service.

ISSUE ON APPEAL

MacDonald's appeal of the Determination was filed with the Tribunal on August 8th, 2000. Appended to the appeal form is a handwritten note dated August 8th, 2000 in which MacDonald states that he is appealing the Determination because his compensation for length of service was incorrectly calculated.

ANALYSIS

This is a simple case of clerical error. The delegate correctly found, based on MacDonald's length of service, that MacDonald was entitled to five weeks' wages as compensation for length of service; the delegate correctly found that MacDonald formerly worked 40 hours per week at an hourly wage of $23. However, in the Determination the delegate incorrectly set out MacDonald's entitlement (excluding interest) as being $3,680 (*i.e.*, four weeks' wages) rather than the correct figure, namely, $4,600.

The delegate, in a submission to the Tribunal dated August 30th, 2000, acknowledged that "there was an error in calculation made in the Determination" and helpfully provided the Tribunal with the correct figure, inclusive of interest, namely, $4,667.96.

Neither L and T nor Richlen, despite being invited to do so, filed any submissions with the Tribunal with respect to MacDonald's appeal.

ORDER

Pursuant to section 115 of the *Act*, I order that the Determination be varied by deleting the award of $3,734.37 in favour of MacDonald and substituting therefor an award of **$4,667.96.** MacDonald is also entitled to additional interest as and from the date of the Determination to be calculated by the Director in accordance with section 88 of the *Act.*

Kenneth Wm. Thornicroft

Kenneth Wm. Thornicroft
Adjudicator
Employment Standards Tribunal