

**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 -

Vernon Flower Shop Ltd., operating as Pinkey's  
("Pinkey's")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** David Stevenson

**FILE NO.:** 98/411

**DATE OF DECISION:** September 25, 1998

**DECISION**

**APPEARANCES**

for the appellant	no one appearing
for the individual	in person

**OVERVIEW**

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by Vernon Flower Shop Ltd., operating as Pinkey’s (“Pinkey’s”) of a Determination which was issued June 2, 1998 by a delegate of the Director of Employment Standards (the “Director”). In that Determination the Director concluded that Pinkey’s had contravened Sections 58, 34(2) and 32(2) in respect of the employment of Bonnie Lange and ordered Pinkey’s to pay an amount of \$853.64 and to comply with the *Act* . Pinkey’s says the Director was wrong to conclude it had contravened Sections 34(2) and 32(2).

**FACTS**

The hearing was scheduled for September 21, 1998 commencing at 9:00 am. I am satisfied notice of the time, date and place of the hearing was communicated to a representative of Pinkey’s. At the scheduled start time Pinkey’s had not appeared. No communication with the Tribunal had been received from any persons representing Pinkey’s prior to the hearing requesting an adjournment or indicating there was some good reason for being unable to attend. The commencement of the hearing was delayed for ½ hour, following which the hearing was commenced in the absence of any representative for Pinkey’s.

The appeal is based entirely on challenges to the factual conclusions reached by the Director in making the Determination.

**ANALYSIS**

In an appeal to the Tribunal, particularly in an appeal challenging conclusions of fact made by the Director, the appellant bears the burden of demonstrating, on a balance of probabilities, that the conclusion of the Director was wrong. Where the appellant fails to appear, that burden cannot be met and the appeal fails.

That is the result in this case.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination dated June 2, 1998 be confirmed in the amount of \$853.64, together with whatever interest has accrued since the date of issuance pursuant to Section 88 of the *Act*.

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**David Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**