

An appeal

- by -

Darren Kampman
(the "Appellant")

- 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: Ib S. Petersen

FILE No.: 2002/309

DATE OF HEARING: September 19, 2002

DATE OF DECISION: September 25, 2002

DECISION

APPEARANCES:

Mr. Willy Jorgensen	on behalf of himself
Ms. Marilyn Barker	on behalf of herself

FACTS AND ANALYSIS

This is an appeal by Mr. Darren Kampman, pursuant to Section 112 of the *Employment Standards Act* (the “*Act*”), of a Determination of the Director issued on May 9, 2002. The Determination concluded that Mr. Kampman was not owed money on account of overtime wages, vacation pay and statutory holidays.

The Determination found that Mr. Kampman was a director and shareholder of 572069 BC Ltd., the holding company owning 542617 BC Ltd. and concluded that the two companies were associated for the purpose of the *Act* (Section 95). The Determination also concluded that Mr. Kampman, who had supervisory duties, was a “controlling mind” and, thus, could not avail himself of the protections in the *Act*.

Mr. Kampman appeals the determination. As the Appellant, he has the burden to persuade me that the Determination is wrong.

A hearing was convened at the Tribunal’s offices for 9:00 a.m. on September 19, 2002. Parties were given notice of this hearing. Mr. Jorgensen and Ms. Barker attended the hearing and were ready to proceed. Mr. Kampman, who at least, according to the appeal form was represented by counsel, did not attend. Neither he nor his counsel contacted the Tribunal to indicate any reason for any absence or delay. At 9:34 a.m. I commenced the hearing. Mr. Kampman was not there at that time. The Tribunal’s hearing notice specifically states that:

“All parties are expected to attend this hearing. If the Appellant fails to attend the hearing, the Tribunal will consider the appeal to be abandoned.”

In the circumstances, I consider the appeal abandoned, and it is, therefore, dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination dated May 9, 2002, be confirmed.

Ib S. Petersen
Adjudicator
Employment Standards Tribunal