

**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 -

Tyrone Yee  
("Yee")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** Geoffrey Crampton

**FILE NO.:** 98/573

**DATE OF DECISION:** September 30, 1998

**DECISION**

**OVERVIEW**

This is an appeal, under Section 112 of the *Employment Standards Act* (“the *Act*”), by Tyrone Yee against a Determination made by a delegate of the Director of Employment Standards on August 12, 1998. The Director determined that Mr. Yee was not owed compensation for length of service by his former employer, P.G. Specialty Wood Products Ltd. (“P.G.”). Mr. Yee submits that his employment with P.G. was terminated without notice and, therefore, he is entitled to compensation for length of service under Section 63 of the *Act*.

**ISSUE TO BE DECIDED**

Did the Director’s delegate err in determining that Mr. Yee was not entitled to compensation for length of service?

**FACTS**

The relevant background facts were set out in the Determination, as follows:

- Tyrone Yee was employed by P.G. as a Production Supervisor from July, 1994 to June 10, 1996 and P.G. Precision Wood Products Ltd. from June, 1993 to July, 1994;
- Yee was aware that the company had been experiencing financial problems up to the time of his departure from the company;
- a meeting was held between the President, Roy Pritchard, and Yee. No one else was present when the conversation took place;
- a Record of Employment (ROE) was issued on June 13, 1996, signed by Rikki Marriott, Secretary to the President;
- Marriott asked Pritchard what reason should be put on the ROE for coding purposes;
- Marriott states she was instructed to put “E” (quit) on the ROE.
- Yee’s last day of employment was June 10, 1996;
- Pritchard attempted to contact Yee in early July, 1996 to discuss a possible return to P.G., but several meeting dates were rescheduled and the two never met.

Within that factual context, there is some dispute about the contents of the conversation which took place between Yee and Pritchard on June 10, 1996. The essence of the dispute is that Yee submits that his request for a leave of absence was denied by Pritchard. Pritchard is adamant that Yee decided to resign when his leave of absence request was denied.

Following her investigation of Yee's complaint under the *Act*, the Director's delegate determined that Yee was not entitled to compensation for length of service under Section 63 of the *Act*. Her reasons for making that determination were:

The key meeting in this dispute is when Yee met with Pritchard to ask for a leave of absence. There were no other witnesses to this conversation. The only evidence is the ROE which the secretary Marriott completed after approaching Pritchard to ask what the reason coding should be. He directed her to enter "E" for quit. The ROE is dated June 13, 1996.

About June 20, 1996, the complainant's wife picked up his final cheque along with the ROE. The coding was not questioned. Yee did provide one letter from the employer he went to work for suggesting that there was future employment from P.G. Specialty Wood Products Ltd., but this is hearsay evidence provided to him by Yee.

## **ANALYSIS**

As the appellant, Mr. Yee bears the onus of establishing, on a balance of probabilities, that the Director's delegate erred in making the Determination. The key issue in dispute is whether Mr. Yee resigned his employment voluntarily or not.

Following her investigation, the Director's delegate determined that Mr. Yee had resigned his employment and, therefore, was not entitled to compensation for length of service. As noted by the Director's delegate, "...the key meeting in this dispute is when Yee met with Pritchard to ask for leave of absence. There were no witnesses to this conversation." However, Yee's appeal provides no information or submission about his recollection of what was said during that conversation.

As noted above Mr. Yee bears the onus of proving his case. To have some prospect of meeting that onus he must submit some evidence or argument which challenges the material point in the Determination. When I review the Determination, Mr. Yee's appeal and the parties' submissions I find that his appeal cannot succeed because Mr. Yee has not made any submission nor given any evidence to challenge or controvert, in any material way, the findings made by the Director's delegate in the Determination.

The information provided by Mr. Yee in his appeal does not establish that P.G. should compensate him for length of service. Mr. Pritchard's directive to his secretary to insert Code "E" ("Quit") on the Record of Employment is the best evidence of the outcome of the

conversation between the two men. Mr. Yee has not provided any evidence nor made any submission which would lead me to conclude that the Director's delegate erred in making her Determination.

**ORDER**

I order, under Section 115 of the *Act*, that the Determination be confirmed.

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**Geoffrey Crampton**  
**Chair**  
**Employment Standards Tribunal**