

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 -

418765 BC Ltd. doing business as Michel Hotel
("the Employer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Geoffrey Crampton

FILE NOS.: 97/389; 97/390; and 97/391

DATE OF HEARING: October 8, 1997

DATE OF DECISION: October 20, 1997

DECISION

APPEARANCES

Joe LeBlanc	on behalf of Director of Employment Standards
David Atherton	on his own behalf
Coby Salmon	on her own behalf
David Turner	on his own behalf

OVERVIEW

This is an appeal by 418765 BC Ltd. dba Michel Hotel (“the Employer”), under Section 112 of the Employment Standards *Act* (the “*Act*”), against three Determinations which were issued by a delegate of the Director of Employment Standards (the “Director”) on April 23, 1997. The Determinations found that the Employer had contravened Sections 16, 18 and 28 of the *Act* by failing to pay wages to and failing to maintain proper payroll records for David Atherton, Coby Salmon and David W. Turner. Irene Turner, Jan Maunder and Pat Atherton attended to give evidence at the hearing.

A hearing was held on October 8, 1997 in Cranbrook, BC at which time the Employer or its representative failed to appear.

This appeal was initially scheduled to be heard in Cranbrook on August 14, 1997. In a letter dated August 6, 1997 the Employer’s representative, Sherry Snow, requested an adjournment of the hearing and one was granted by the Tribunal’s Registrar. On August 7, 1997 the Registrar notified all parties in writing that the hearing would be held on October 8, 1997. On August 8, 1997 the Registrar sent a Notice of Hearing to confirm that the hearing would be held at 9:00 a.m. on October 8, 1997 in Cranbrook, BC.

Sherry Snow wrote to the Tribunal on September 30, 1997 to advise that she was not available “the week before and the week after Thanksgiving” and requested another adjournment. The Registrar denied that request in writing, by facsimile, on October 3, 1997. Ms. Snow wrote to the Registrar again on October 6, 1997 to advise that she was “...not available in October.” The Registrar replied in writing on October 7, 1997 (by facsimile) to confirm that the hearing scheduled for October 8, 1997 would not be adjourned. The Registrar’s letter also stated:

“The burden in an appeal is on the appellant to persuade the Tribunal that the Determination is wrong. You are the appellant in this appeal. If you fail to appear at the hearing, the Tribunal will deem the appeal to have been abandoned, and the determination will be confirmed.”

As noted above, neither Ms. Snow (nor any other representative of the Employer) appeared at the hearing. Consistent with the information contained in the Registrar’s letter of October 7, 1997 I hereby find that the Employer’s appeal is deemed to be abandoned.

ORDER

I order, under section 115 of the *Act*, that the Determinations be confirmed.

Geoffrey Crampton
Chair
Employment Standards Tribunal

GC/sf