

**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 -

W. Tobien Enterprises Ltd.,  
operating Riviera Motel  
("Tobien")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** David B. Stevenson

**FILE NO.:** 1999/537

**DATE OF HEARING:** October 29, 1999

**DATE OF DECISION:** November 9, 1999

**DECISION**

**APPEARANCES**

for the Appellant

Wilma Tobien  
Carmen Jarvis

for the individual

Melody Carvill  
Stacy Bennett

**OVERVIEW**

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by W. Tobien Enterprises Ltd., operating Riviera Motel (“Tobien”) of a Determination which was issued on August 13, 1999 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that Tobien had contravened Section 58 of the *Act* in respect of the employment of Melody Carvill and ordered Tobien to pay an amount of \$1130.44.

At the hearing of this appeal, all of the persons appearing agreed that Melody Carvill and Stacy Bennett had been employed as a couple to manage the Riviera Motel in Osoyoos for Tobien. This agreement formed the basis for a settlement discussion and the parties were able to reach a settlement of this appeal without a hearing.

Stacy Bennet also participated in the settlement discussions and in the settlement agreement. The agreement represents a full and final settlement of all and any claims of any manner whatsoever, past, present or future, by Tobien, its directors, officers, agents or employees, against either Melody Carvill or Stacy Bennett arising out of their employment with Tobien and, correspondingly, of all and any claims, past, present or future, by either Melody Carvill or Stacy Bennett against Tobien, its directors, officers, agents or employees, arising out of their employment with Tobien.

The key elements of the settlement agreement were as follows:

1. That the amount of \$1130.44 ordered to be paid to Melody Carvill in the Determination would be reduced by an amount of \$200.00:
2. The balance, less statutory deductions calculated at a rate most favourable to the employee, would be paid by Tobien to Melody Carvill no later than 4:00 pm, October 29, 1999; and
3. Tobien would forthwith prepare and deliver Melody Carvill’s Record of Employment.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination dated August 13, 1999 varied show the amount owing to be \$930.44.

---

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