

BC EST #D513/98

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 -

Gabriola Foods Ltd.
(" Gabriola Foods or the employer")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Paul E. Love

FILE NO.: 98/531

DATE OF DECISION: November 10, 1998

DECISION

ANALYSIS

This is an appeal by Gabriola Foods Ltd. (the "employer") of a Determination dated July 17, 1998 which held that the employer had dismissed Holly Best (the "employee") without just cause or compensation for length of service. The employer failed to appear at this hearing. No explanation was given for the employer's absence. The employer did not telephone either the Public Service Appeal Board offices in Nanaimo (the hearing venue), or the Nanaimo offices of the Employment Standards Branch (across the hall from the hearing room). The employee testified that she resides on Gabriola Island, as do the principals of the employer. She testified that she did not see the principals of the employer on the ferry, and that she would have done so if they had been present.

This matter was set for hearing because there was a credibility issue relating to the termination of the employment. The burden in this proceeding is on the employer to satisfy me that there was an error in the Determination such that I should vary or cancel the Determination. I reviewed the material filed by the employer and the employee and I am satisfied that the written material filed does not raise any error in the Determination.

I dismiss the employer's appeal in this case because it failed to appear for the appeal and because there is no merit to the case advanced by the employer.

ORDER

Pursuant to section 115 of the *Act*, I order that the Determination in this matter, dated July 17, 1998 be confirmed.

Paul E. Love
Adjudicator
Employment Standards Tribunal