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 -

Paul Tinari, Director/Officer of PDT Global Environmental Services Corporation (the "Employer" or "PDT")

- of a Determination issued by -

The Director of Employment Standards (the "Director")

ADJUDICATOR: Ib S. Petersen

FILE NO.: 98/627

DATE OF DECISION: November 23, 1998

DECISION

SUBMISSIONS

Dr. Paul D. Tinari

on behalf of himself

OVERVIEW

This decision concerns an appeal by the Dr. Paul Tinari ("Tinari") pursuant to Section 112 of the *Employment Standards Act* (the "Act") against a Determination of the Director of Employment Standards (the "Director") dated September 10, 1998 which determined that Tinari was liable as a director/officer of the Employer to a former employee in the amount of \$339.78.

FACTS AND ANALYSIS

Section 96 of the *Act* provides for personal liability for corporate directors and officers. They may be liable for up to two month's unpaid wages for each employee, if they were directors or officers at the time the wages were earned or should have been paid. In other words, the issues that arise under Section 96 are limited, including, whether a person was a director/officer at the material time, or whether the amount of personal liability was calculated correctly (see, for example, *Pacific Western Vinyl Windows & Doors Ltd.*, BCEST #180/96). In my view, the Act is quite clear. There is no requirement that a person be both an officer and a director, it is sufficient if a person is either a director or an officer. Tinari argues that he had resigned and was not a director at the material time. However, the corporate records indicate that he was still an officer. In my view, that is sufficient and the appeal must fail.

ORDER

Pursuant to Section 115 of the Act, I order that the Determinations in this matter, dated September 10, 1998 be confirmed.

Ib Skov Petersen

Adjudicator

Employment Standards Tribunal

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