

An appeal

- by -

Greenvale Enterprises Inc
("Greenvale")

- of a Determination issued by -

The Director of Employment Standards
(the "Director")

pursuant to Section 112 of the
Employment Standards Act R.S.B.C. 1996, C.113

ADJUDICATOR: William Reeve

FILE No.: 2002/544

DATE OF DECISION: December 2, 2002

DECISION

OVERVIEW

This is an appeal by Greenvale Enterprises Inc. (“Greenvale”) pursuant to section 112 of the *Employment Standards Act* (the “*Act*”) against a Determination issued by a delegate of the Director of Employment Standards on October 8, 2002. The Determination assessed a penalty of \$1,200.00 against Greenvale for contravention of section 13 (1) of the *Act*. The deadline for appeal of the Determination was 4:30 p.m. on October 30, 2002. Greenvale sent an incomplete appeal by fax to the Tribunal. It was dated October 30, 2002 but was received at 3:19 p.m. on October 31, 2002. Subsequently Greenvale perfected its appeal by sending documentation by mail that was received by the Tribunal on November 6, 2002.

In response to receipt of the late appeal the Tribunal wrote an acknowledgement letter to Greenvale on November 6, 2002 noting that the appeal was late and inviting Greenvale to provide reasons why the appeal deadline should be extended. The deadline for response given in the letter was November 21, 2002. The letter informed Greenvale that, “If you do not respond by [the November 21, 2002 deadline] then, the Tribunal will be unable to proceed with your appeal”.

No response to the acknowledgement letter was received from Greenvale, nor was a submission received from the Delegate.

ISSUE

The only issue to be addressed in this Decision is whether the Tribunal should extend the deadline for requesting an appeal in accordance with the powers of the Tribunal under section 109 (1)(b) of the *Act*.

ARGUMENT

As noted above no submissions were made on the issue.

THE FACTS AND ANALYSIS

In the face of the uncontroverted fact that the appeal was late, the absence of reasons why the deadline should be extended, or any response from the parties, there is no basis for an extension of the deadline for appeal. Additionally, in reviewing the factors that the Tribunal would normally consider in deciding whether to extend an appeal deadline, I note that the Appellant does not appear to have a strong case that might succeed.

ORDER

The appeal is dismissed pursuant to section 114(1) of the *Act*. Pursuant to section 115(1) of the *Act* the Determination dated October 8, 2002 in the amount of \$1,200.00 is confirmed.

William Reeve
Adjudicator
Employment Standards Tribunal