

**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 -  
561233 B.C. Ltd. operating as  
Quality Fish Fresh Seafood Market Kamloops Ltd.  
("Quality Fish")

- of a Determination issued by -

The Director Of Employment Standards  
(the "Director")

**ADJUDICATOR:** David B. Stevenson

**FILE No:** 1999-524

**DATE OF HEARING:** November 8, 1999

**DATE OF DECISION:** December 10, 1999

**DECISION**

**APPEARANCES:**

for the appellant	No one appearing
for the individual	in person
for the Director	Ken Copeland

**OVERVIEW**

This is an appeal pursuant to Section 112 of the *Employment Standards Act* (the “Act”) by 561233 B.C. Ltd., operating as Quality Fish Fresh Seafood Kamloops Ltd. (“Quality Fish”) of a Determination which was issued on August 3, 1999 by a delegate of the Director of Employment Standards (the “Director”). The Determination concluded that Quality Fish had contravened Section 18(1) of the *Act* in respect of the employment of Kathy Carpen and ordered Quality Fish to pay an amount of \$232.31

The hearing on this appeal was set for November 8, 1999 to commence at 9:00 am at the location set out in the Notice of Hearing issued to the parties and the Director on October 6, 1999. No representative for Quality Fish appeared at the appointed time and location on the date set. I am satisfied that Quality Fish received the Notice of Hearing.

Prior to the hearing date the Tribunal had received no request from Quality Fish for an adjournment and had received no other indication that they would not attend the hearing. The hearing was adjourned for 15 minutes to account for the possibility that he or she had been unavoidably detained. The hearing recommenced at 9:18 am without any representative of Quality Fish present. The hearing was recommenced and, as no evidence or argument was presented by Quality Fish to show the Determination was wrong, was concluded quickly.

Sometime later that day, a representative of Quality Fish, Rhett Mortenson, contacted the Tribunal and said he had been unable to make the hearing due to a personal emergency and asked that another hearing date be set. The Tribunal requested Mr. Mortenson to provide some documentation confirming the stated reason for his failure to attend and temporarily postponed issuing reasons for the decision pending receipt and review of that documentation. Several subsequent communications by the Tribunal reiterating the request for the documentation were made. A deadline was set and communicated to Mr. Mortenson, but by November 30, 1999 the Tribunal had still not received any such documentation. Unless some very good reason can be shown, the Tribunal will not exercise its discretion to reset a hearing to accommodate a party who has received notice of hearing but has failed to appear. In this case no reason has been established and, accordingly, there is no basis for scheduling another hearing date.

**ANALYSIS**

This appeal is based entirely on a dispute by Quality Fish with the facts alleged by Kathy Carpen and accepted by the investigating officer. The burden that Quality Fish has in this appeal is to show that the conclusions of fact found in the Determination are wrong. Their absence effectively prevents them from meeting that burden and the result is that there is no basis for concluding that either the Determination is wrong.

**ORDER**

Pursuant to Section 115 of the *Act*, I order the Determination dated August 3, 1999 be confirmed in the amount of \$232.41, together with any interest that has accrued pursuant to Section 88 of the *Act*.

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**David B. Stevenson**  
**Adjudicator**  
**Employment Standards Tribunal**