

An appeal

- by -

Ron Wright operating as Durol Computer Services
(“Wright”)

- 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: Lorne D. Collingwood

FILE No.: 2001/575

DATE OF DECISION: October 22, 2001

DECISION

OVERVIEW

The appeal is by Ron Wright operating as Durol Computer Services (whom I will refer to as both “Wright” and “the Appellant”) and pursuant to section 112 of the *Employment Standards Act* (“the *Act*”). Wright appealed a Determination issued on May 18, 2001 by a delegate of the Director of Employment Standards (“the Director”). The Determination orders Wright to pay Susan Epp \$4,578.38 in wages and interest. It also awards Paulett Larocque \$7,597.93 in wages and interest.

The appeal was delivered to the Tribunal after the statutory period for appealing the Determination had expired. By the decision, *Ron Wright operating as Durol Computer Services*, BCEST No. D422/01, I extended the time limit for the appeal. That being done, the Tribunal invited submissions with respect to the merits of the appeal.

In this decision I deal with the appeal itself. I have found that while Wright, in filing his appeal, asked for an opportunity to disprove the Determination and claimed that he had the ability to do so on the basis of documents in his possession, nothing at all has been heard or received from him. The appeal is therefore dismissed.

This appeal has been decided on the basis of written submissions.

ISSUE TO BE DECIDED

The issue before me is whether or not there is any reason to proceed further in this case.

FACTS

Wright is, or at least was, operating as Durol Computer Services.

Susan Epp worked for Wright as an instructor.

Paulett Larocque worked for Wright as officer manager.

The employees both quit on September 20, 2000 and they filed complaints pursuant to the *Act*. Each claimed that they worked for Wright on the promise of being paid wages once his new company, Durol, was up and running. According to the employees, months went by and Wright made no attempt to pay them any wages.

The Determination is an award of wages. It is based on information supplied by the employees, the employer not filing any information.

As noted above, the employer, on filing his appeal, claimed an ability to show that the Determination is in error. He said, “I wish an opportunity to disprove these allegations and believe I have the ability and documentations (I believe that he meant to use the word “documents”) to totally refute the matter”.

Despite the appeal and the decision to extend time limits, nothing at all has been heard from Wright, nor has he filed any documents in support of his case.

ANALYSIS

In that the Appellant has produced absolutely nothing in support of his appeal, I am moved to dismiss the appeal. The Appellant must give the Tribunal at least some reason to believe that a Determination is in error. Failing that the appeal may be dismissed on the basis that it is either frivolous, merely vexatious, trivial, not in good faith, or some combination of the above.

- 114** (1) The tribunal may dismiss an appeal without a hearing of any kind if satisfied after examining the request that
- (a) the appeal has not been requested within the time limit in section 112 (2),
 - (b) the appeal is not within the tribunal’s jurisdiction, or
 - (c) the appeal is frivolous, vexatious or trivial or is not brought in good faith.

ORDER

I order, pursuant to section 114 of the *Act* that the appeal be dismissed and that the Determination be confirmed. The Determination awards Susan Epp \$4,578.38 in wages and interest and to that I add whatever further interest has accrued pursuant to section 88 of the *Act*. The Determination awards Paulett Larocque \$7,597.93 in wages and interest and to that I add whatever further interest has accrued pursuant to section 88 of the *Act*.

Lorne D. Collingwood
Adjudicator
Employment Standards Tribunal