

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 -

Vancouver East Automotive Clearance Centre Ltd.
("Vancouver East Automotive")

- of a Determination issued by -

The Director Of Employment Standards
(the "Director")

ADJUDICATOR: Hans Suhr

FILE NO.: 97/772

DATE OF DECISION: January 5, 1998

DECISION

OVERVIEW

This is an appeal by Vancouver East Automotive Clearance Centre Ltd. (“Vancouver East Automotive”), under Section 112 of the *Employment Standards Act* (the “Act”), against a Determination dated October 1, 1997 issued by a delegate of the Director of Employment Standards (the “Director”). Vancouver East Automotive alleges that the delegate of the Director erred in the Determination by issuing a penalty against its business.

ISSUE TO BE DECIDED

The issue to be decided in this appeal is whether it was appropriate for the Director to issue a penalty Determination.

FACTS

The text of the Determination dated October 1, 1997 is set out below:

On October 1, 1997, a Determination was issued by Helene Beauchesne Industrial Relations Officer (copy attached). As Vancouver East Automotive Clearance Centre Ltd. has contravened a specified provision of a Part of the *Employment Standards Act*, this is a penalty in the amount of \$0.00 for these contraventions.

A further contravention by Vancouver East Automotive Clearance Centre Ltd. of these specified provisions will result in a penalty of \$150.00 per employee by the contravention as set out in Section 29 of the *Employment Standards Regulation*. Contraventions beyond that may result in penalties of \$500.00 per affected employee.

ANALYSIS

The onus is on the appellant, Vancouver East Automotive, to provide evidence that would establish that the Director erred in the Determination.

The *Act* gives the Director many powers to administer and enforce the provisions of the *Act*. One of the powers is to impose a penalty.

Section 98(1) of the *Act* states:

98. Monetary penalties

(1) If the director is satisfied that a person has contravened a requirement of this Act or the regulations or a requirement imposed under section 100, the director may impose a penalty on the person in accordance with the prescribed schedule of penalties.

The only evidence provided by Vancouver East Automotive in regard to the appeal of the Penalty Determination is the statement “ATT. I have recived the warring and at the same they I have recived the ful of maximum penalt!” (sic)

For the appellant to simply state I disagree with the Determination is not sufficient. There is an onus on the appellant in any matter to provide *at least some evidence* to challenge the Determination.

Vancouver East Automotive has failed to provide any evidence to challenge the Determination.

For the above reasons I conclude that the appeal of Vancouver East Automotive must be dismissed.

ORDER

Pursuant to Section 115 of the *Act*, I order that the Determination dated October 1, 1997 be confirmed in all respects.

Hans Suhr
Adjudicator
Employment Standards Tribunal