

An appeal

- by -

Total Fabric Care Incorporated operating as Genie's Fine Drycleaning

- 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: Norma Edelman

FILE No.: 2001/522

DATE OF HEARING: October 25, 2001

DATE OF DECISION: October 25, 2001

DECISION

APPEARANCES:

| | |
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| Juli Ens | on behalf of herself |
| No one | on behalf of Genie's |

OVERVIEW

This is an appeal by Total Fabric Care Incorporated operating as Genie's Fine Drycleaning ("Genie's") pursuant to Section 112 of the Employment Standards Act (the "Act") of a Determination issued by a delegate of the Director of Employment Standards on June 21, 2001. The delegate found that Genie's dismissed Juli Ens ("Ens") without just cause and therefore owed her compensation for length of service in the amount of \$ 127.13, including interest. Genie's appealed on the ground that it had just cause to terminate the employment of Ens.

ANALYSIS

As the Appellant, Genie's bears the onus of showing that Determination is incorrect.

Since this appeal would involve reviewing facts and assessing credibility, it was set down for an oral hearing.

The Tribunal scheduled an oral hearing to take place at 9:00 a.m. on October 25, 2001 at its Vancouver offices. The parties were sent a notice of hearing which included the following statement: "If the Appellant fails to attend the hearing, the Tribunal will consider the appeal to be abandoned." The notice also advised the parties they were to send final documents to the Tribunal by October 11, 2001. A submission dated September 29, 2001 was received from Mrs. K. Bhangu, on behalf of Genie's. In the submission Mrs. Bhangu acknowledges receiving the notice of hearing.

Although duly notified, Genie's did not attend the hearing and offered no explanation for its failure to attend. Ens did attend the hearing.

I waited 30 minutes before commencing the hearing. I confirmed with the Tribunal's office that the Appellant had not contacted it. When the hearing commenced, I ordered that Genie's appeal be dismissed on the ground that it had abandoned the appeal. The Determination is confirmed given there was no evidence before me upon which I could reasonably conclude that the findings set out in the Determination are incorrect.

ORDER

I order under Section 115 of the Act that the Determination dated June 21, 2000 be confirmed in the amount of \$127.13, plus any further interest accruing under Section 88 of the Act.

Norma Edelman
Vice-Chair
Employment Standards Tribunal