

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-

Christopher R. Prince

(“Prince”)

- of a Determination issued by -

The Director of Employment Standards

(the “Director”)

ADJUDICATOR: Kenneth Wm. Thornicroft

FILE No.: 97/714

DATE OF HEARING: December 10th, 1997

DATE OF DECISION: January 28th, 1998

DECISION

APPEARANCES

Christopher R. Prince on his own behalf

Dean Schubert)
Patrick Lee)
Kevin Charles) on their own behalf (“former employees”)
Raymond Aldana)
Yanka Loh)

Lesley A. Christensen for the Director of Employment Standards

OVERVIEW

This is an appeal filed by Christopher R. Prince (“Prince”) pursuant to section 112 of the *Employment Standards Act* (the “Act”) from Determination No. DDET 000963 issued by the Director of Employment Standards (the “Director”) on September 5th, 1997 (the “Determination”).

The Director determined that Prince was a director and/or officer of SSC Industries Ltd. and, in accordance with section 96 of the *Act*, was liable for 2 months’ unpaid wages owed to some twelve former employees of a firm known as Ron Busch Construction Corporation. The Director held, in a related determination also issued on September 5th, 1997 (CDET 006823), that the twelve former employees were entitled to a total sum of \$75,454.17. Prince’s liability, based on the 2 month wage liability ceiling contained in section 96, was held to be \$57,407.92. Prince does not dispute this latter calculation as to the amount of wages for which he would be liable if the Director has properly imposed liability on him under sections 95 and 96 of the *Act*.

Prince’s appeal, and the appeal filed by SSC Industries Ltd. regarding Determination No. CDET 006823, were heard together at the Tribunal’s offices in Vancouver on December 10th, 1997.

ISSUE TO BE DECIDED

In Determination No. CDET 006823 the Director held, applying section 95 of the *Act*, that SSC Industries Ltd. was, *inter alia*, “associated” with Ron Busch Construction Corporation and Busch Industries Ltd. Accordingly, all three firms, that is, SSC Industries Ltd., Ron Busch Construction Corporation and Busch Industries Ltd., could be considered to be “one person for the purposes of [the] *Act*.” Thus, if wages are owed to employees of any one of the “associated firms”, all firms declared to be “associated” are “jointly and separately liable” for the employees’ unpaid wages.

As noted above, the Director's determination that that SSC Industries Ltd. was associated with one or more of Ron Busch Construction Corporation *et al.* is also under appeal. Prince does not appeal the Director's Determination that he was a director or officer of SSC Industries Ltd.; indeed, he admits as much.

Prince's appeal is based on the logical argument that if SSC Industries Ltd. is not liable for the twelve employees' unpaid wages because that firm is not "associated" with the twelve employees' former employer(s) of record, then neither can Prince be held liable for any unpaid wages by reason of section 96 of the *Act*.

In essence, Prince's appeal stands or falls depending on the outcome of SSC Industries Ltd.'s appeal of the section 95 declaration.

CONCLUSION

In light of my decision that the Director correctly determined that SSC Industries Ltd., Ron Busch Construction Corporation and Busch Industries Ltd. were "associated corporations" as defined by section 95 of the *Act* (see EST Decision No. D021/98 issued concurrently with this decision), and Prince's acknowledgement that he is a director or officer of SSC Industries Ltd., Prince's appeal must be dismissed.

ORDER

Pursuant to section 115 of the *Act*, I order that Determination No. DDET 000963 be confirmed as issued in the amount of \$57,407.92 together with whatever further interest that may have accrued, pursuant to section 88 of the *Act*, since the date of issuance.

Kenneth Wm. Thornicroft, *Adjudicator*
Employment Standards Tribunal