

An appeal

- by -

David H. Barbour & associates Limited  
(“Barbour”)

- 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:** M. Gwendolynne Taylor

**FILE No.:** 2001/718

**DATE OF DECISION:** December 27, 2001

## DECISION

### OVERVIEW

This is an appeal pursuant to Section 112 of the Employment Standards Act (the "*Act*") brought by David H. Barbour and Associates Limited ("Barbour") of a Determination issued on September 27, 2001 by the Director of Employment Standards (the "Director"). The Director found that Barbour owed Lance Finskars, a former employee, \$5,721.27 for compensation in lieu of written notice of termination and interest.

Barbour appealed the Determination on the grounds that the Director did not give Barbour adequate opportunity to make submissions and this led to misinformation in the Determination. Barbour contends that Finskars had ample oral notice that his employment would end on October 31, 2000.

### ISSUE

Does oral notice of termination meet the requirements of the *Employment Standards Act*?

### THE FACTS AND submissions

The parties agree that Lance Finskars worked for Barbour for approximately 10 years and that his employment ended on October 31, 2000. In September 2000, Barbour told Finskars that the warehouse would be closing and his employment would cease as of October 31.

Barbour, represented by David Barbour, submits that the intent of the notice provisions of the *Act* is to protect employees in receiving ample notice in advance of termination, or financial compensation. In this case, the employee was given at least 6 weeks notice.

Finskars submitted that Barbour had previously told him the company was in trouble but it kept operating. Therefore, he tended to ignore the warnings, and he took the news of the October 31 closure "casually".

### DECISION

The *Act* is clear in the requirement for written notice. The Tribunal has decided many cases in which it has held that oral notice is insufficient. Barbour has not presented any evidence or submissions that would cause me to question the Director's Determination.

Barbour indicated that there was misinformation in the Director's Determination. However, I don't see that Barbour has indicated what that misinformation is. The relevant facts are straightforward and not in dispute.

David Barbour suggested that a face to face hearing would resolve all issues and demonstrate his honesty. I do not see anything in the Determination or in Finskars' submissions that casts any shadow on Mr. Barbour's honesty. This is a straightforward case of statutory interpretation and failure by Barbour to provide written notice.

### **ORDER**

The Appeal is dismissed and the Determination dated September 27, 2001 is confirmed.

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**M. Gwendolynne Taylor**  
**Adjudicator**  
**Employment Standards Tribunal**