

An appeal

- by -

PHR Restaurants Ltd. - or - Corral Foods Ltd. - or - both entities associated
pursuant to Section 95 of the *Employment Standards Act*
(the “Appellant”)

- 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: Wayne R. Carkner

FILE No.: 2001/707

DATE OF DECISION: December 27, 2001

DECISION

OVERVIEW

This decision is based on an application for appeal form and a one-page submission submitted by legal counsel for the Appellant as well as the facts and conclusions contained in the Determination dated September 21, 2001.

SUBMISSIONS

For the Appellant

Stephen J. Oliver – Counsel for the Appellant

OVERVIEW

This is an appeal by PHR Restaurants Ltd. – or – Corral Foods Ltd. – or – both entities associated pursuant to Section 95 of the *Employment Standards Act* (the “*Act*”) pursuant to Section 112 of the *Act* of a Determination issued by the Director of Employment Standards (the “Director”) on September 21, 2001.

The Determination concluded that the Appellant closed three Pizza Hut Restaurants, in Prince George, Quesnel and William’s Lake. These restaurants were operated pursuant to franchise agreements with Tricom Global Restaurants (Canada) Ltd. The restaurants were closed without notice to thirty employees, the Respondents in this appeal. The Determination concluded that the Appellant had contravened Sections 18, 34, 45, 46, 58 and 63 of the *Act* and ordered as a remedy, including interest pursuant to Section 88 of the *Act*, a total sum \$38,762.55 for the Respondents. Attached to the Determination were detailed calculation sheets identifying the specific remedy for each Respondent.

Counsel for the Appellant filed an appeal alleging that the Director erred in concluding that PHR Restaurants Ltd. and Corral Foods Ltd. were associated pursuant to Section 95 of the *Act*. Counsel for the Appellant further alleged that the Director erred in the accuracy of the accounting contained in the Determination.

ISSUES

1. Did the Director err in concluding that PHR Restaurants Ltd. and Corral Foods Ltd. were associated pursuant to Section 95 of the *Act*?
2. Did the Director err in the calculations contained in the Determination?

ANALYSIS

The burden of proof to show that the Director erred in conclusions and/or calculations falls with the Appellant.

In the application for appeal counsel for the Appellant alleged;

- “(a) The Appellants dispute the Director’s findings that PHR Restaurants Ltd. and Corral Foods Ltd. are associated pursuant to s. 95 of the *Employment Standards Act*.
- (b) The Appellants dispute the accuracy of the accounting referred to in the Director’s decision. The Appellant, PHR Restaurant Ltd., is in the process of preparing its own accounting from payroll records and will submit its findings to the employment Standards Tribunal as soon as possible.”

These allegations were filed with the Tribunal on October 10, 2001. The deadline for submissions for the appeal was December 3, 2001. As of that date no further submissions were received in the Tribunal Offices.

CONCLUSIONS

The Appellant has failed to provide any evidence to show an error in the Director’s Determination dated September 21, 2001.

The appeal is dismissed.

ORDER

Pursuant to Section 115 of the *Act* I order that the Determination dated September 21, 2001 be confirmed along with any interest accrual pursuant to Section 88 of the *Act*.

Wayne R. Carkner
Adjudicator
Employment Standards Tribunal