

An Application for Reconsideration

- by -

Hollywood and Vine Hair Company Ltd.
("Hollywood and Vine" or the "Appellant")

- of a Decision issued by -

The Employment Standards Tribunal
(the "Tribunal")

pursuant to Section 116 of the
Employment Standards Act R.S.B.C. 1996, C.113

ADJUDICATOR: William Reeve

FILE No.: 2002/425

DATE OF DECISION: September 12, 2002

DECISION

On August 7, 2002 the Tribunal received a request from Hollywood and Vine Hair Company Ltd. for reconsideration of Tribunal Decision BC EST #D298/02. That Decision, rendered on July 10, 2002 by Adjudicator Ib S. Petersen, dismissed the appeal and ordered that the Determination of the Director of Employment Standards (the “Director”) dated April 5, 2002 be confirmed.

The *Act* intends that Adjudicator’s Appeal Decisions are “final and binding”. Therefore, the Tribunal only agrees to reconsider a Decision in exceptional circumstances. Reconsideration is not a right to which a party is automatically entitled, rather it is undertaken at the discretion of the Tribunal. The Tribunal uses its discretion with caution in order to ensure: finality of its decisions; efficiency and fairness of the appeal system and fair treatment of employers and employees.

The Tribunal will not normally agree to reconsider a Decision if the intent is simply to have the Tribunal “re-weigh” evidence previously considered or dismissed by the Adjudicator or to seek a “second opinion” when a party simply does not agree with the Adjudicator’s Decision. The Reconsideration process was not meant to allow parties another opportunity to re-argue their case.

Some of the reasons why the Tribunal might agree to reconsider an Order or Decision are:

- The Adjudicator failed to comply with the principles of natural justice;
- There is some mistake in stating the facts;
- The Decision is not consistent with other Decisions based on similar facts;
- Some significant and serious new evidence has become available that would have led the Adjudicator to a different decision;
- Some serious mistake was made in applying the law;
- Some significant issue in the appeal was misunderstood or overlooked; and
- The Decision contains some serious clerical error.

In the request for reconsideration the principal of Hollywood & Vine reviews at length the Decision of Adjudicator Petersen and the Appellant’s arguments in the matter. The Appellant also expresses unhappiness with the allegedly inequitable character of the *Employment Standards Act* and “the system”. The Decision of Adjudicator Petersen shows that the Appellant’s arguments made in the request for reconsideration were largely the same as those made to the Adjudicator. The entire reconsideration request appears to be an attempt to re-argue the matter. Nothing in the submission raises a serious challenge to the Decision on any of the seven grounds noted above. In this circumstance the request for reconsideration cannot succeed.

ORDER

Pursuant to section 116 of the *Act*, and for the reasons given above, the request for reconsideration of Tribunal Decision BC EST #D289/02 is refused.

William Reeve
Adjudicator
Employment Standards Tribunal