Employment Standards TRIBUNAL

.Citation: Ashton Education Ltd. (Re)
2024 BCEST 100

EMPLOYMENT STANDARDS TRIBUNAL

An appeal
pursuant to section 112 of the
Employment Standards Act R.S.B.C. 1996, C.113 (as amended)

\- by -

Ashton Education Ltd.
("Ashton Education")

\- of a Determination issued by -

The Director of Employment Standards

PANEL:	Shafik Bhalloo, K.C.
SUBMISSIONS:	Colin Fortes, on behalf of Ashton Education Ltd.
FILE NUMBER:	2024/082
DATE OF DECISION:	October 23, 2024

DECISION

OVERVIEW

1. This is an appeal by Ashton Education Ltd. ("Ashton Education") of a decision of a delegate of the Director of Employment Standards ("Director") issued on May 27, 2024 ("Determination").

2. On February 25, 2023, John S. Kurian filed a complaint under section 74 of the *Employment Standards Act* (*ESA*) with the Director alleging that his former employer, Ashton College Ltd. ("Ashton College") had contravened the *ESA* by failing to pay him statutory holiday pay, vacation pay, and compensation for length of service ("Complaint").

3. In investigating the Complaint and making the Determination, the Director followed a two-step process. One delegate of the Director ("investigative delegate") corresponded with the parties and gathered information and evidence. Once that process was completed, the investigative delegate prepared a report dated April 3, 2024 ("Investigation Report"). The Investigation Report included questions to be answered by the investigation including whether Ashton College and Ashton Education are associated employers as defined by section 95 of the *ESA* and summarized the submissions made by the parties, witnesses, and included a list of relevant records and documents which were attached to the Investigation Report. The Investigation Report was sent to the parties for review and comment within a deadline. None of Mr. Kurian, Ashton College, or Ashton Education, provided further information in response to the Investigation Report. The matter was then sent to a second delegate ("adjudicative delegate") who assumed responsibility for reviewing the responses and any replies and issuing the Determination pursuant to section 81 of the *ESA*.

4. For purposes of the *ESA*, the Determination found Ashton College and Ashton Education are associated employers (collectively, "Employer").

5. The Determination found that the Employer violated Part 7, section 58 (vacation pay) and Part 8, section 63 (compensation for length of service) of the *ESA* in respect of the employment of Mr. Kurian.

6. The Determination ordered the Employer to pay wages to Mr. Kurian in the total amount of $5,789.57 including accrued interest.

7. The Determination also levied two administrative penalties of $500 each against the Employer for contravention of sections 58 and 63 of the *ESA*.

8. The Employer has filed two separate appeals of the Determination, one by Ashton Education and another by Ashton College and made separate written submissions. Therefore, I have decided each appeal separately.

9. In its Appeal Form, Ashton Education has checked off two of the three available grounds of appeal under section 112(1) of the *ESA*, namely, the Director erred in law and failed to observe the principles of natural justice in making the Determination.

10. Section 114(1) of the *ESA* provides that the Tribunal may dismiss all or part of an appeal without seeking submissions from the other parties or the Director if it decides that the appeal does not meet certain criteria. After reviewing the appeal submissions of Ashton Education, I find it is unnecessary to seek submissions on the merits from Mr. Kurian or the Director.

11. My decision is based on the section 112(5) record ("record") that was before the Director at the time the Determination was made, the appeal submissions of Colin Fortes, on behalf of Ashton Education, the Determination, and the Reasons for the Determination ("Reasons").

ISSUE

12. The issue to be considered at this stage of the proceeding is whether the appeal should be allowed to proceed or dismissed under section 114(1) of the *ESA*.

THE DETERMINATION AND THE REASONS

Background

13. According to a BC Registry Services Searches conducted online on March 13, 2023, with a currency date of September 20, 2022, Ashton College was incorporated in British Columbia on September 14, 1998. Mr. Fortes is listed as the sole director. A search on the same platform of Ashton Education conducted online on March 11, 2024, with the currency date of December 13, 2023, indicates that Ashton Education was incorporated in British Columbia on September 20, 2018, and Mr. Fortes is listed as its sole director.

14. Ashton College operates an online vocational training business in Vancouver, which falls within the jurisdiction of the *ESA*. Ashton Education operates a business that provides administrative and human resource services to Ashton College. It also operates the "Ashton Education Network" consisting of other corporate entities that provide other complementary services like testing facilities, and preparing individuals for licensing certification exams, and IT certification exams.

15. Mr. Kurian worked as an instructor for the Employer from March 14, 2013, to January 18, 2023. At the time of termination of his employment, his rate of pay was $45 per hour.

16. Mr. Kurian filed the Complaint against the Employer within the period allowed under the *ESA*.

17. As indicated by the adjudicative delegate in the Reasons, the key issues for the Determination were the following: whether Mr. Kurian was as an employee under the *ESA*; whether he was entitled to statutory holiday pay and vacation pay; whether he was entitled to compensation for length of service; and whether Ashton College and Ashton Education were associated employers as defined by section 95 of the *ESA*.

18. The adjudicative delegate reviewed the Investigation Report, which detailed the evidence presented by both Mr. Kurian and the Employer, ultimately accepting it as an accurate reflection of the parties' positions.

19. In addressing the first issue, the adjudicative delegate emphasized the *ESA*'s definition of "employee," which includes "a person an employer allows directly or indirectly to perform work

normally performed by an employee." The Employer argued that Mr. Kurian was merely a faculty member on short-term teaching contracts, while Mr. Kurian contended that these contracts were scheduling documents that did not reflect his employment status. Evidence, such as T-4 tax forms and contracts that outlined his pay rate, work hours, and responsibilities, demonstrated that Mr. Kurian was under the Employer's control and direction, leading the adjudicative delegate to conclude that he indeed satisfied the definition of an employee under the *ESA*.

20. Regarding vacation and statutory holiday pay, the Employer argued that vacation pay was included in Mr. Kurian's hourly rate, citing various appointment letters, such as one dated March 14, 2013, which stated that his pay would be $40 per hour, and another dated January 12, 2021, indicating that his $45 per hour rate included 4% vacation pay. However, Mr. Kurian disputed this, providing wage statements that did not reflect any vacation pay being paid or accrued. The employee detail record provided by the Employer also failed to show any amounts paid for vacation. Additionally, Mr. Kurian argued that having been employed for over five years, he was entitled to 6% vacation pay, not the 4% the Employer claimed.

21. The adjudicative delegate concluded that blending vacation pay into an hourly rate was impermissible under the *ESA*, as it reduces the regular rate of pay and the overall wages owed to the employee. Moreover, there was no evidence supporting the claim that Mr. Kurian had ever been paid vacation pay. Based on his continuous employment since 2013, the adjudicative delegate determined that Mr. Kurian was entitled to 6% vacation pay, which should have been paid on his gross wages. This entitlement covered the recovery period from January 18, 2021, to January 18, 2022, per section 80 of the *ESA*. Using Mr. Kurian's T-4 statements for 2020 and 2021 as the only evidence of his earnings, the adjudicative delegate prorated his income and calculated that he was owed $2,900.38 in vacation pay.

22. Regarding statutory holiday pay, the adjudicative delegate found no evidence that Mr. Kurian had been paid for any statutory holidays. Section 44 of the *ESA* states that an employee is eligible for statutory holiday pay if they have been employed for at least 30 consecutive days and worked or earned wages for 15 of the 30 days preceding the holiday. Although Mr. Kurian had been continuously employed since 2013, the adjudicative delegate examined the payroll summaries provided by the Employer and determined that he had not worked the required 15 days prior to any of the statutory holidays during the recovery period from January 18, 2022, to January 18, 2023. While Mr. Kurian also had short-term contracts during certain periods for which no payroll records were submitted, the adjudicative delegate concluded that those courses were likely canceled. Even if Mr. Kurian had worked those courses, the adjudicative delegate stated that it would not have affected his eligibility for statutory holiday pay, as he still would not have met the required threshold of working 15 days in the 30-day period preceding any of the statutory holidays.

23. In the result, the adjudicative delegate found that while Mr. Kurian was entitled to vacation pay, he was not eligible for statutory holiday.

24. With respect to whether Mr. Kurian was entitled to compensation for length of service, the adjudicative delegate began by citing section 63 of the *ESA*, which provides that, after three months of employment, an employer is liable to pay compensation for length of service or provide written notice of termination, unless the employee quits, retires, or is dismissed for just cause. Section 65(1)

of the *ESA* excludes employees hired for a definite term from the protections or entitlements under section 63.

25. The Employer argued that Mr. Kurian was employed under definite-term contracts, which would exclude him from entitlement to length-of-service compensation. These contracts, referred to as Short-Term Teaching Contracts, were cited as the basis for this claim. However, Mr. Kurian disputed this characterization, stating that these were merely scheduling documents and did not define the nature of his employment as term-based. He claimed he was offered continuous employment, teaching one class per week, "like a regular job."

26. The adjudicative delegate referred to the Tribunal's decision in *Delphi International Academy et al*. (BC EST # D166/02), where it was determined that recurring employment agreements did not create a definite-term employment relationship if the overall relationship was ongoing and continuous. In the *Delphi* case, the Tribunal Member noted that the terms of the employees' contracts were inconsistent with a definite-term arrangement, as the salaries were "subject to review on an annual basis," vacation time was "not cumulative from year to year," health benefits increased with each year of employment, and pension contributions were subject to a three-year vesting rule. Additionally, the agreements included a termination clause requiring notice based on years of service, which is inconsistent with fixed-term employment.

27. In Mr. Kurian's case, the adjudicative delegate relied on similar facts to conclude that his employment was indefinite rather than for a fixed term. The March 14, 2013, letter issued to Mr. Kurian at the time of his hire specified that his rate of pay was "subject to annual review," indicating a long-term employment relationship. Additionally, the June 10, 2015, Offer of Appointment to the Faculty Pool stated that "4% vacation pay would be added to each pay cheque," and explicitly noted that Mr. Kurian would "not bank any vacation pay," which is typical of ongoing, indefinite employment. Given the similarity of these facts to those in *Delphi* and the absence of any evidence suggesting Mr. Kurian's employment would end at a prescribed time, the adjudicative delegate found that Mr. Kurian was employed under an indefinite employment arrangement.

28. The Employer alternatively argued that Mr. Kurian was terminated for just cause, citing alleged performance issues. The adjudicative delegate outlined the test for just cause based on progressive discipline, which requires that:

1. The employer must establish a reasonable performance standard and communicate it to the employee;
2. The employee must be given sufficient time and opportunity to meet that standard;
3. The employer must warn the employee that failure to meet the standard could result in termination; and
4. The employee must fail to meet the standard after these steps.

29. In the present case, the Employer provided evidence of performance concerns raised in two letters from Suzanne Adams, the Program Director. The first letter, issued in December 2022, outlined five performance issues, including tardiness, unprofessional attire, and inadequate feedback. It also identified action items to address these concerns. Despite this, in January 2023, Ms. Adams sent a

termination letter citing eight additional complaints, including irrelevant discussions, inadequate teaching, and student dissatisfaction with exams.

30. The adjudicative delegate found that many of the concerns raised in the January termination letter were new and had not been previously communicated to Mr. Kurian. Importantly, there was no evidence that Mr. Kurian was given an opportunity to address these issues before his termination. Moreover, the Employer did not provide documentation of an internal investigation or any feedback from the entire class, despite being requested to do so by the investigative delegate. Therefore, the adjudicative delegate concluded that the Employer failed to establish just cause for termination based on progressive discipline.

31. Regarding the continuity of employment, the Employer asserted that Mr. Kurian’s employment was not continuous since March 14, 2013, due to a lack of available contracts. Mr. Kurian countered this by providing evidence of consistent scheduling throughout his recovery period in 2022, though there was a break between June 29 and September 12, 2022. The adjudicative delegate accepted that Mr. Kurian’s employment was continuous despite this break and noted the absence of evidence from the Employer to prove otherwise.

32. In conclusion, the adjudicative delegate found that Mr. Kurian was entitled to compensation for length of service, calculated based on eight years of employment. His average weekly wage was determined to be $283.50, and he was awarded eight weeks’ compensation, amounting to $2,268, plus 6% vacation pay of $136.08, for a total of $2,404.08.

33. Regarding the association of Ashton College and Ashton Education as defined by section 95 of the *ESA*, the adjudicative delegate noted that if the Director considers that businesses are carried on by or through more than one corporation under common direction or control, they may be treated as one employer for the purposes of the *ESA*. During the investigation, the Employer asserted that Mr. Kurian was employed solely by Ashton College and not Ashton Education. The Employer was invited to provide evidence regarding the association but failed to do so, nor did they dispute the evidence suggesting that both entities were part of the same business network under the management of Mr. Fortes. This included evidence that both corporations shared resources, personnel, and operational control, further substantiated by payroll information and administrative communications linking both entities.

34. Based on this undisputed evidence, the adjudicative delegate found that Ashton College and Ashton Education should be treated as one employer for the purposes of the *ESA*, as they were jointly and separately liable for the payment of Mr. Kurian's wages.

35. The adjudicative delegate also held that Mr. Kurian was entitled to interest in the amount of $485.11 pursuant to section 88 of the *ESA*.

36. Furthermore, the adjudicative delegate determined that the Employer contravened sections 58 and 63 of the *ESA*, and levied penalties of $500 each against the Employer for these violations.

EMPLOYER'S SUBMISSIONS

37. Ashton Education, represented by its director, Mr. Fortes, is appealing the Determination's conclusion that it was an "associated employer" of Mr. Kurian alongside Ashton College, pursuant to section 95 of the *ESA*. Ashton Education argues that the Determination was flawed due to incorrect factual findings, reliance on insufficient evidence, and breaches of natural justice.

38. The central argument advanced by Ashton Education is that the adjudicative delegate erred in determining that Ashton Education had been invited to provide evidence or submissions regarding its status as an associated employer and had failed to do so. Ashton Education asserts that there is no evidence on the record to support this conclusion. It says that there was no invitation to provide evidence or submissions, and contrary to the adjudicative delegate's claim, Ashton Education did not fail to dispute the evidence suggesting it was an associated employer.

39. Ashton Education relies on the Investigation Report prepared by the investigative delegate, which it claims was sent to incorrect addresses via both email and regular mail. It states that the Investigation Report was emailed to jchang@ashtoneducation.ca, but the hard copy was mailed to an old address, 1190 Melville Street, Vancouver, which Ashton Education had vacated in April 2023. It argues that this address was no longer its registered office, as evidenced by corporate searches included in the Investigation Report. As such, Ashton Education maintains that it was not properly notified of the investigation or given an opportunity to respond, making the adjudicative delegate's conclusion that Ashton Education did not provide submissions an error of law. Ashton Education emphasizes that the only evidence of supposed notification relied on by the adjudicative delegate was the defective Investigation Report, which does not demonstrate that Ashton Education was properly informed or provided with a fair opportunity to participate in the process.

40. Ashton Education also disputes several factual findings relied upon by the adjudicative delegate in the Determination. It points to page 11 of the Reasons, where the adjudicative delegate lists evidence, including claims of operational integration and common control between Ashton College and Ashton Education, which were allegedly undisputed. Ashton Education contends that these conclusions were made without any supporting evidence and asserts that it was not given proper opportunity to challenge these findings due to procedural deficiencies in the notice provided during the investigation. This, Ashton Education argues, further undermines the fairness of the decision-making process.

41. Ashton Education further challenges the adjudicative delegate's reliance on a 2013 employment letter as evidence of a connection between Ashton College and Ashton Education. The letter, which offered Mr. Kurian a sessional instructor position in 'Ashton Education's accounting programs,' was cited by the delegate as proof of Ashton Education's involvement in the business. Ashton Education disputes this conclusion, asserting that it could not have been involved in any programs in 2013, as it was only incorporated as a BC numbered company in September 2018 and subsequently renamed Ashton Education in January 2019. Ashton Education argues that its non-existence at the time of the letter renders the adjudicative delegate's reliance on this document both factually inaccurate and an error of law. It contends that the adjudicative delegate acted on a view of facts which cannot be reasonably entertained.

42. Ashton Education also contends that on page 12 of the Reasons, the adjudicative delegate further concludes that Ashton College and Ashton Education were jointly involved in delivering vocational education programs and that Mr. Fortes exercised common control and direction over both entities. The adjudicative delegate cites the sharing of resources and personnel as evidence of operational integration. Ashton Education disputes this finding, asserting that no evidence supports the conclusion that the two entities should be treated as one employer under the *ESA*. It argues that the Determination was based on speculative assumptions or "without any evidence."

43. Ashton Education also contends that the Director breached the principles of natural justice in making the Determination. It argues that it was denied a fair hearing and was not given the opportunity to hear the case against it, present its own evidence and arguments, or be heard by an independent and impartial decision-maker. It points out that the decision was made by the adjudicative delegate, who did not personally hear the parties' evidence or arguments.

44. In conclusion, for the reasons outlined above, Ashton Education appears to be requesting that the Tribunal overturn the Determination.

ANALYSIS

45. Having reviewed the Determination, the section 112(5) record, and Mr. Fortes' submissions on behalf of Ashton Education, I find the appeal should not be allowed to proceed; it should be dismissed under section 114(1) of the *ESA*. My reasons follow.

46. Section 112(1) of the *ESA* provides that a person may appeal a determination on the following grounds:

 (a) the director erred in law;

 (b) the director failed to observe the principles of natural justice in making the determination;

 (c) evidence has become available that was not available at the time the determination was being made.

47. The Tribunal has consistently held that an appeal is not simply another opportunity to argue the merits of a claim to another decision-maker. An appeal is an error correction process, and the burden is on the appellant to persuade the Tribunal that there is an error in the determination under one of the statutory grounds of review in section 112(1).

48. The *ESA* does not provide for an appeal based on errors of fact and the Tribunal has no authority to consider appeals which seek to have the Tribunal reach a different factual conclusion than was made by the Director unless the Director's findings raise an error of law: see *Britco Structures Ltd.*, BC EST # D260/03.

49. It is also important to note that a party alleging a failure to comply with principles of natural justice must provide some evidence in support of that allegation: see *Dusty Investments Inc. dba Honda North,* BC EST # D043/99.

50. Having delineated some of the relevant principles applicable to appeals, as previously noted, Ashton Education has checked off the "error of law" and "natural justice" grounds of appeal under section 112(1) in the Appeal Form.

51. I will discuss each ground of appeal under separate headings below starting with the error of law ground.

a. Error of law

52. Tribunal jurisprudence regarding error of law is well established. The leading case is *Britco, supra*, in which the Tribunal adopted the following definition of "error of law" set out by the British Columbia Court of Appeal in *Gemex Developments Corp. v. British Columbia (Assessor of Area #12 – Coquitlam)*,1998 CanLii 6466 (BCCA), [1998] BCJ No. 2275 (B.C.C.A.):

1. a misinterpretation or misapplication of a section of the *ESA*;
2. a misapplication of an applicable principle of general law;
3. acting without any evidence;
4. acting on a view of the facts which could not reasonably be entertained; and
5. adopting a method of assessment which is wrong in principle.

53. In reviewing Ashton Education's appeal, it is essential to clarify the limited scope of its arguments. Ashton Education does not contest the Director's findings regarding Mr. Kurian's status as an "employee," nor does it challenge the determinations on vacation pay, statutory holiday pay, or compensation for length of service. Instead, Ashton Education's primary focus is on the classification of Ashton Education and Ashton College as "associated employers" under section 95 of the *ESA* and the alleged failure of the Director to invite Ashton Education to submit further evidence or make additional submissions on this issue. Ashton Education asserts that the Investigation Report was sent to an outdated address on Melville Street in Vancouver, rather than its registered and records office, raising concerns about the integrity of the process.

54. Upon reviewing the adjudicative delegate's analysis in the Reasons, I find no error of law in the conclusion that Ashton Education and Ashton College are associated employers under section 95 of the *ESA*. The conclusion is supported by several persuasive factors outlined in the record and the Investigation Report. Specifically, the adjudicative delegate considered the shared ownership structure between Ashton Education and Ashton College, indicating common control; the overlapping management personnel, with both entities relying on the same executives for key operational decisions; the operational interdependence, where Ashton College depended on Ashton Education for various administrative and financial services; and the coordinated decision-making processes observed during the investigation, which demonstrated that the entities function as a single economic unit rather than as independent organizations.

55. I find the adjudicative delegate's reasoning persuasive, as it is grounded in a careful analysis of the facts presented by both parties. Therefore, I find there is no basis to interfere with the adjudicative delegate's conclusion that Ashton Education and Ashton College are "associated employers" under section 95 of the *ESA*.

56. Ashton Education's concerns regarding the lack of opportunity to respond to the Investigation Report will be addressed below under the "Natural Justice" ground of appeal.

b. Natural Justice

57. The Tribunal in *Re: 607730 B.C. Ltd. (c.o.b. English Inn & Resort)*, BC EST # D055/05, explains that principles of natural justice are, in essence, procedural rights ensuring the parties have an opportunity to learn the case against them, the right to present their evidence and the right to be heard by an independent decision-maker.

58. In *Imperial Limousine Service Ltd.,* BC EST # D014/05, the Tribunal expounded on the principles of natural justice as follows:

> Principles of natural justice are, in essence, procedural rights ensuring that parties have an opportunity to know the case against them; the right to present their evidence; and the right to be heard by an independent decision maker. It has been previously held by the Tribunal that the Director and her delegates are acting in a quasi-judicial capacity when they conduct investigations into complaints filed under the *Act*, and their functions must therefore be performed in an unbiased and neutral fashion. Procedural fairness must be accorded to the parties, and they must be given the opportunity respond to the evidence and arguments presented by an adverse party (see *B.W.I. Business World Incorporated* BC EST # D050/96).

59. The burden of proving a failure to comply with the principles of natural justice rests on the party making the allegation.

60. In this case, Mr. Fortes, on behalf of Ashton Education, contends that Ashton Education "was never given the opportunity to hear the case about them, to present their evidence and arguments [in response to the Investigation Report], to be heard by an independent and impartial decision-maker and to have the dispute decided by the decision-maker who actually heard the parties evidence and argument."

61. The record provided by the Director in this appeal clearly demonstrates the interactions and opportunities both Ashton Education and Ashton College had to participate in the investigation. Ms. Chang, the Chief Operating Officer of Ashton Education, regularly communicated with the investigative delegate using her email address, jchang@ashtoneducation.ca, with her last correspondence occurring just nine days before the email notification of the Investigation Report on April 3, 2024. This ongoing communication highlights Ashton Education's active involvement in the investigation process. Although Ashton Education raises concerns about the outdated mailing address on Melville Street where the Investigation Report was sent, it does not raise similar objections regarding the report being sent to Ms. Chang's email address. I find, on a balance of probabilities, that the Investigation Report was duly received by Ms. Chang via email.

62. Moreover, the Investigation Report sent to Ms. Chang's email address included a clear deadline of 4:00 p.m. on April 17, 2024, for submitting a written response or any additional information relevant to the Complaint. This timeframe provided ample opportunity for Ashton Education to present its case; yet there was an absence of any response from Ashton Education and Ms. Chang. This silence is telling. I find, on balance of probabilities, that it reflects a conscious choice not to engage rather

than a lack of opportunity. Therefore, I find the assertion that Ashton Education was denied an opportunity to present their evidence and/or to respond to the Investigation Report is unfounded and lacks credibility. There is ample evidence in the record demonstrating that the Employer was provided with opportunities to participate in the investigation process but ultimately chose to remain silent after the Investigation Report was sent to Ms. Chang.

63. I also note that sections 76 and 77 of the *ESA* require the Director to accept a complaint, investigate, and allow the person under investigation to respond to the complaint. Complaints filed under the *ESA* typically proceed by way of investigation. According to section 77.1 of the *ESA*, there is no requirement for an oral hearing, and natural justice does not necessitate a hearing in all circumstances. The Director's role is to make reasonable attempts to obtain relevant information from the parties, whether orally or in writing, regarding the complaint and any responses to it, to assess compliance with the *ESA*.

64. Ashton Education's assertion that it was denied natural justice by not having the opportunity to present its case to the decision-maker who heard the parties' evidence and arguments fundamentally misapprehends the principles of natural justice and the procedural structure under the *ESA*. The claim that the bifurcated process—where the investigative delegate conducts the investigation, and the adjudicative delegate makes a determination based on the Investigation Report and any submissions—violates natural justice is unfounded. This structure effectively separates fact-finding from decision-making. Such a division of roles does not detract from the fairness and impartiality of the process, as there is no objective evidence to suggest any violation of natural justice principles occurred.

65. In conclusion, I find that the Director, through both its representatives—the investigative delegate and the adjudicative delegate—complied with the requirements of the *ESA* and adhered to the principles of natural justice throughout the process. Furthermore, there is no objective evidentiary basis presented by Ashton Education to demonstrate that it was denied the opportunity to be heard by an independent and impartial decision-maker. For all the reasons stated above, I conclude that there is no basis for the Tribunal to interfere with the Determination under the natural justice ground of appeal, or any ground of appeal.

66. The appeal is dismissed.

ORDER

67. Pursuant to subsection 114(1)(f) of the *ESA*, there is no reasonable prospect that this appeal will succeed and therefore, it is summarily dismissed. Pursuant to subsection 115(1)(a) of the *ESA*, the Determination dated May 27, 2024, is confirmed as issued.

/S/ Shafik Bhalloo

Shafik Bhalloo, K.C.
Member
Employment Standards Tribunal