

Citation: Sean Huang  
2025 BCEST 30

EMPLOYMENT STANDARDS TRIBUNAL

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

- by -

Sean Huang

- of a Determination issued by -

The Director of Employment Standards

PANEL:	M. Diane Irvine
SUBMISSIONS:	Jordan Su, on behalf of Sean Huang
FILE NUMBER:	2024/140.ESA.AP
DATE OF DECISION:	March 13, 2025

## DECISION

### OVERVIEW

1. The appellant, Sean Huang, is an officer and director of Pacific Community Builders Inc, as well as an officer and director of Minglian Holdings Ltd. He is appealing a September 24, 2024, determination by a delegate of the Director of Employment Standards concerning his personal liability, as a corporate officer, for \$21,200 plus interest under sections 96 and 88 of the Employment Standards Act (*ESA*). In total, Mr. Huang was ordered to pay \$23,393.51 within five working days. I will refer to this determination as the “Section 96 Determination.”
2. The Section 96 Determination followed a prior determination, made on July 19, 2024, concerning a complaint that Pacific Community Builders Inc. and Minglian Holdings Ltd. should be considered one associated employer (the “Associated Employer”), and that they contravened the *ESA* by failing to pay 156 days of accrued vacation pay to a former employee. I will refer to this determination as the “Corporate Determination.”
3. Neither Minglian Holdings Ltd. nor Pacific Community Builders Inc. appealed the Corporate Determination.
4. Mr. Huang appeals the Section 96 Determination on the grounds of new evidence being available. His submission explained that the Associated Employer was in the process of arranging a payment schedule, but that it believed the former employee’s actions had caused damage to the Associated Employer and that this warranted compensation “for at least half of the damages incurred.”
5. For the reasons that follow, I conclude this appeal has no reasonable prospect of success. I therefore dismiss the appeal without seeking submissions from the other parties pursuant to section 114(1)(f) of the *ESA*.

### ANALYSIS

6. Mr. Huang’s appeal does not argue the merits of the Section 96 Determination, nor does it attempt to argue the merits of the Corporate Determination which preceded it. Instead, Mr. Huang seeks to introduce new evidence which concerns allegations that the former employee harmed the Associated Employer.
7. The law is clear that an appellant must meet the necessary requirements for new evidence and the failure to do so will generally result in dismissal of the appeal on this ground (see *Bruce Davies and others, Directors or Officers of Merilus Technologies Inc.*, supra, *Can-Pacific Trading Inc.*, BC EST # D082/11, *Anthony McInnis*, 2020 BCEST 9). Evidence that was available and could have been submitted during the investigation and determination stage does not meet the requirements to be considered new evidence.
8. Here, Mr. Huang is seeking to introduce a series of text messages from July 2022 between the Associated Employer’s office manager and the former employee. These messages predate the Director’s investigation and determinations; they could have been submitted at that stage.

9. Further, these allegations are not new and were addressed during the investigation. In an email exchange dated January 18, 2024, an investigator for the Employment Standards Branch advised that these allegations were outside the scope of the *ESA* and encouraged the Associated Employer to seek legal advice. The Associated Employer's representative, Jordan Su, replied that the Associated Employer would pay the former employee his outstanding vacation pay and would "pursue him separately for damages."
10. Accordingly, I find Mr. Huang's submissions do not meet the requirements for new evidence, and dismiss this ground of appeal.

### **ORDER**

11. Pursuant to section 114(1)(f) of the *ESA*, I dismiss this appeal.
12. Pursuant to section 115(1)(a) of the *ESA*, I confirm the Section 96 Determination together with any additional interest that has accrued pursuant to section 88 of the *ESA*.

*/S/ M. Diane Irvine*

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**M. Diane Irvine**  
**Member**  
**Employment Standards Tribunal**