

#### **DIRECTOR'S ORDER UNDER SECTION 157**

#### OF THE FAIR TRADING ACT

TO

## 1774346 ALBERTA LTD. DOING BUSINESS AS THE DRAIN EXPERT AND JODY SMALLWOOD

AND

#### ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF

### 1774346 ALBERTA LTD. OR JODY SMALLWOOD

This Director's Order was issued under s. 157 of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1 of the *Fair Trading Act*, this Director's Order is part of the public record.

For more information on the Fair Trading Act, business licensing in Alberta or to search for a licensed business, please click here:

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**Tipsheets** 





Consumer Programs

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#### DIRECTOR'S ORDER UNDER SECTION 157 OF THE FAIR TRADING ACT

TO

# 1774346 ALBERTA LTD. DOING BUSINESS AS THE DRAIN EXPERT AND JODY SMALLWOOD

#### AND TO

# ANY AGENT OR EMPLOYEE OF 1774346 ALBERTA LTD. OR JODY SMALLWOOD

### **ISSUES**

1774346 Alberta Ltd., doing business as The Drain Expert, is a drain cleaning business based in Lethbridge and servicing Lethbridge, Medicine Hat, Brooks, Crowsnest Pass and High River.

On October 13, 2013 a Medicine Hat consumer hired The Drain Expert to clear a blocked sewer line and was charged fees totaling \$614.25. The consumer was advised the main sewer line had been crushed or fractured at about 25 feet. The consumer declined the Drain Expert's video inspection service because of the \$600.00 additional charge. On October 17, 2013 the City of Medicine Hat provided a video camera inspection and reported the main sewer line was not crushed or fractured but at approximately 25 feet, there was a massive amount of tree roots. The City recommended the consumer not turn on the water because sewage would back up in the house because of the tree root blockage. On October 17, 2013 the consumer hired Pro Flow Plumbing & Heating Corp. who cleared the main sewer line of tree roots for a fee of \$157.50. On October 21, 2013 the City again completed a video camera inspection and reported the main sewer line was not crushed or fractured and the tree roots were cleaned out.

On October 26, 2013 a second Medicine Hat consumer hired The Drain Expert to clear a blocked sewer line and was charged fees totaling \$640.50. The consumer was advised: the sewer line was broken and as it was a serious problem she should get the city

involved. The consumer was also told the sewer line was blocked at about 55 to 60 feet and this was caused by city trees. On October 30, 2013 the City of Medicine Hat provided a video camera inspection and reported the main sewer line was not broken but was filled with light to medium tree roots and there was water sitting 3 feet from the main line clean out.

The City advised the consumer if the toilet was flushed, sewer water would back up in the home. On October 31, 2013 the consumer hired Pro Flow Plumbing & Heating Corp. who cleared the main sewer line of tree roots for a fee of \$157.50. On October 31, 2013 the City again completed a video camera inspection and reported the sewer line was not broken and the tree roots were cleaned out.

### Legislation

The Fair Trading Act, RSA 2000, Chapter F-2 states:

Section 6(2) It is an unfair practice for a supplier, in a consumer transaction or a proposed consumer transaction,

(d) to charge a price for goods or services that grossly exceeds the price at which similar goods or services are readily available without informing the consumer of the difference in price and the reason for the difference.

The consumers were not advised your fees of \$614.25 and \$640.50 grossly exceeded the price of \$210.00 for similar weekend services (by 292.5% and 305%) that were readily available in Medicine Hat and the reason for the difference.

Section 6(3) It is an unfair practice for a supplier

(a) to enter into a consumer transaction if the supplier knows or ought to know that the consumer is unable to receive any reasonable benefit from the goods or services.

You were unable to establish to what extent you had removed the tree roots from the consumer's sewer lines. You stated without the video inspection, you were guessing as to how to clean the sewer line was and you had no control over what you could not see. The consumers had to hire another sewer cleaning business within one week of your work being completed because their sewer lines were still plugged because of tree roots.

Section 6(4) Without limiting subsections (2) and (3), the following are unfair practices if they are directed at one or more potential consumers:

(a) a supplier doing or saying anything that might reasonably deceive or mislead a consumer.

Your 2013 Medicine Hat Telephone Directory Yellow Pages advertisement (Page 219) stated The Drain Expert was licensed and insured. You did not hold the required City of Medicine Hat Business Licence when you performed the work for the Medicine Hat consumers in October 2013.

You advised the Medicine Hat consumers their sewer lines were either broken or fractured. You made this statement without completing a video inspection. The City of Medicine Hat completed video inspections and advised these consumers their sewer lines were not broken and did not need replacing.

#### ORDER

Jody Smallwood and 1774346 Alberta Ltd. individually or through any employee, representative, agent or associate, must immediately cease engaging in unfair practices in Alberta with consumers or potential consumers.

### NON COMPLIANCE WITH ORDER

ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE FAIR TRADING ACT, CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE FAIR TRADING ACT.

## <u>APPEAL</u>

You have the right to appeal this Order under Section 179(1)(d) of the Fair Trading Act. In order to do so a notice of appeal must be served on the Minister of Service Alberta within 30 days of your being served with this Order.

George Yates

Director of Fair Trading November 10, 2014