

BRIAN DOUGLAS MOLLOY
AND TO
ANY EMPLOYEE, REPRESENTATIVE, OR AGENT
OF
BRIAN DOUGLAS MOLLOY

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 of the Fair Trading Act, this Director's Order is part of the public record.

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

TO

BRIAN DOUGLAS MOLLOY

**AND ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF BRIAN DOUGLAS
MOLLOY**

ISSUE

On or about February 2, 2013 Brian Molloy entered into a contract with a consumer in person at the consumer's residence for work on that residence. The work included plumbing work in two bathrooms, as well as supply of related materials such as bathtub surrounds. The total price of this contract was \$4900. A paper labelled an "Invoice" was provided to the consumer listing the work to be completed. The consumer gave a deposit of \$2850 on the day the contract was made. While Mr. Molloy was completing this work, it was found a rotten floor joist needed to be replaced, and the consumer alleges a verbal agreement was reached for this work to be done. The consumer provided an additional payment of \$4040 to cover the cost of the original contract plus the replacement of the floor joist. The original contract was completed, but no work was done on the joist.

This activity constitutes a "prepaid contracting business" requiring a person or business to be licensed under Section 104(1) of the *Fair Trading Act*. A Prepaid Contracting Business means the activities of soliciting, negotiating or concluding in person, at any place other than the seller's place of business, a construction or maintenance contract in which all or part of the contract price is to be paid before all of the goods or services called for in the contract are provided. When a business enters into a prepaid contract to provide goods and services worth \$200 or more, this contract must be in writing and include specific terms required by the *Fair Trading Act*.

Brian Douglas Molloy has entered into a prepaid contract with a consumer without holding this licence, and did not include all required terms in that prepaid contract. As of December 2013, he was informed of the prepaid contracting licence requirement. Although Mr. Molloy has stated he will cease operating as a prepaid contractor, and will obtain a licence if he does operate this way in the future, there is the potential he may enter into prepaid contracts with residential consumers in the future without a licence, in violation of the *Fair Trading Act*.

ORDER

- Brian Douglas Molloy, either in his own capacity or when acting on behalf of a corporation which he represents or in which he has an interest, must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until licensing requirements have been met and must ensure all prepaid contracts include the terms required by the *Fair Trading Act*.
- Any employee, representative, agent or associate of Brian Douglas Molloy must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until licensing requirements have been met and must ensure all prepaid contracts include the terms required by the *Fair Trading Act*.

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*.



Scott Hood
Director of Fair Trading (as delegated)
April 3, 2014