

CARMEN SIMMONS

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.

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

TO

CARMEN SIMMONS

AND TO

ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF CARMEN SIMMONS

Issue:

On or about June 8, 2007, Mr. Carmen Simmons negotiated and concluded in person a contract with a consumer for renovation and landscaping work on a personal residence. The consumer located Mr. Simmons through work he was doing on a neighbouring property. Mr. Simmons attended the consumer's residence and signed a contract totalling \$6,750. The consumer provided Mr. Simmons with three cheques of \$2,000 as progress payments. The work ceased after the last cheque was provided, and the items required by the contract were not completed.

The consumer subsequently entered into a new contract at her residence with Mr. Simmons to complete the balance of the work outstanding with payment to be made when the work is completed. The commencement date on the second contract was noted as June 15, 2009 but work did not commence on that date.

This activity constitutes a "prepaid contracting business" requiring a person or business to be licensed as required 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.

Carmen Simmons has entered into a prepaid contract without holding this licence. In January 2009, Mr. Simmons was informed of the prepaid contracting business licence requirement, but has not obtained the required licence.

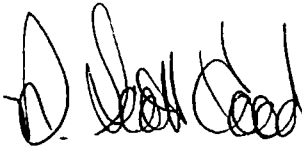
While Mr. Simmons has informed this office he now intends to take solely commercial contracts and not to take prepayments on residential contracts, the potential remains that he may at some future time enter into prepaid contracts with residential consumers without a licence, in violation of the *Fair Trading Act*.

Order:

- Carmen Simmons, in either his own capacity or when acting on behalf of a corporation in which he has an interest or is employed by, must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until the licensing requirements have been met.
- Any employee, representative, agent or associate of Carmen Simmons must immediately cease entering into prepaid contracts (taking down payments, deposits or progress payments before the work is fully completed) with residential consumers until the licensing requirements have been met.

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)
July 30, 2009