
DIRECTOR'S ORDER UNDER SECTION 157

OF THE *FAIR TRADING ACT*

TO

**DAVID CHARLES MCGILL OPERATING AS
DAVID MCGILL PAINTING AND DRYWALL SERVICES**

AND TO

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT
OF DAVID CHARLES MCGILL**

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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Issues

In September 2013 Alberta residential consumers responded to a David McGill's Kijiji ad offering drywall services. Mr. McGill came to their home and gave them a quote of \$8,500.00 for materials and labour. Mr. McGill wanted a 50% deposit, upfront.

They kept in touch by e-mail. The consumers hired Mr. McGill in June 2014. He honoured his previous quote. The price was reduced to \$7,000.00 as they agreed the consumers would buy the materials.

No updated contract was written.

On June 5, 2014 David McGill came to the consumer's residence and wanted half down to start the job. That day, the consumers paid David McGill \$3500.00. Mr. McGill was also paid \$1000.00 on June 27, 2014 and \$1500.00 on July 8, 2014.

After being paid \$6000.00 of the \$7000.00 agreed upon price, Mr. McGill did not complete the work. It was necessary for the consumers to hire someone to complete installing the drywall and hire another contractor to complete the mudding, taping and texturing.

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 that 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.

Under Section 10 of the *Prepaid Contracting Business Licensing Regulation*, when a prepaid contract is for a value of more than \$200, the prepaid contracting business must ensure the prepaid contract complies with the requirements of Section 35 of the *Fair Trading Act* and sets out the quality or types of materials to be used under the contract and the services and work to be carried out under the contract.

A person who engages in a prepaid contracting business and who enters into a prepaid contract with a consumer must provide a copy of the signed contract to the consumer on or before the date work commences or within 10 days of the signing, whichever comes first.

David McGill entered into prepaid contract without holding this license. As of March 3, 2015 there is no record David McGill has applied for or been issued a license.

Order

David Charles McGill and/or David McGill Painting and Drywall Services must immediately:

1. Cease entering into prepaid contracts until he has obtained a provincial license as a prepaid contracting business, and
2. Stop taking down payments, deposits or progress payments from consumers before the work is fully completed or until the licensing and contract 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)
March 26, 2015