

**IN THE MATTER OF
THE CONSUMER PROTECTION ACT**

THIS UNDERTAKING is made pursuant to Section 152 of the *Consumer Protection Act*.

BY:

Carmel Joy Baird

(hereinafter called the "**Supplier**")

TO:

The **DIRECTOR OF FAIR TRADING (as delegated)**,

(hereinafter called the "**Director**")

WHEREAS:

- (A) The Supplier has informed the Director that she understands the issues and circumstances surrounding the Undertaking.
- (B) The Supplier acknowledges that, in the ordinary course of business, she failed to provide services or dates for appointments that had been booked by consumers. The Supplier also acknowledges that her terms and conditions were one-sided and harsh, and that she did not provide refunds to all of the consumers who were told that they would be refunded.
- (C) The Director asserts that he has reason to believe that the acts or practices of the Supplier described in recital B hereof constitutes a breach of the *Consumer Protection Act*.

NOW THEREFORE THIS UNDERTAKING WITNESSES THAT:

- 1. The Supplier acknowledges and admits that she failed to comply with provisions of the *Consumer Protection Act* and undertakes to the Director that the Supplier will make every effort to ensure that she will comply in the future.
- 2. The Supplier provide refunds to the consumers identified in Appendix A.
- 3. The Supplier asserts that she has amended her terms and conditions so that consumers who contract services with her after the signing of this undertaking can request a refund if services are not provided by the date on which they were originally booked.
- 4. The Supplier now provides the terms and conditions before taking payment from consumers.
- 5. The Supplier will provide consumers with reasonable notice of rescheduled appointments.

6. The Supplier asserts that she has taken measures to ensure she does not take on more clients than she is able to provide services for, and, in the future, will provide services within a reasonable period of time after they have been scheduled.
7. This Undertaking will be binding upon the Supplier unless:
 - (a) Terminated by the Director or varied with the consent of the Supplier;
 - (b) Varied by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the circumstances warrant varying the provisions of the Undertaking; or
 - (c) Terminated by an Order of the Judge of the Court of Queen's Bench where the Judge is satisfied that the act or practice that the Supplier has undertaken to refrain from engaging in was not unfair:
however, in any such case, the termination or variance does not invalidate anything done under this Undertaking prior to termination or variance.
8. The Supplier acknowledges that the Director may, upon breach by the Supplier of any term of the Undertaking, institute such proceedings and take such action under the *Consumer Protection Act* as he may consider necessary.
9. The Supplier acknowledges that this Undertaking is a public document and will be maintained in the public record by the Director of Fair Trading as required by s. 157.1 of the *Consumer Protection Act*.
10. The Supplier will pay to the Government of Alberta the sum of \$1,000; an amount that represents a portion of the costs associated with investigating these matters. Such payment shall be made within 45 days of the signing of this Undertaking.
11. The Supplier acknowledges that she was advised by Service Alberta, and is aware that she is entitled to seek independent professional advice regarding the signing of this Undertaking, and the Supplier acknowledges that she is entering into this Undertaking voluntarily.

IN WITNESS WHEREOF the Supplier, has on the 16 day of December, 2020 signed this document.

CARMEL JOY BAIRD

PER Carmel Joy Baird

ACCEPTED by the Director of Fair Trading (as delegated) this 22 day of December, 2020

[Signature]
Director of Fair Trading

Recital B

Legislation

Consumer Protection Act RSA 2000 Chapter C-26.3

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

(c) to include in a consumer transaction terms or conditions that are harsh, oppressive or excessively one-sided;

(d) to make a representation that a consumer transaction involves or does not involve rights, remedies or obligations that is different from the fact;

Findings

The supplier engaged in unfair practices as their terms and conditions are harsh and excessively one-sided because:

- a) they permit the supplier to move an appointment for an unreasonably long period of time;
- b) the determination of whether to move the appointment and at what date to reschedule it is at the supplier's sole discretion; and
- c) refunds are not permitted.

This represents an unfair practice under section 6 (3)(c). The fact that the supplier allowed consumers to also request a date be rescheduled does not mitigate the fact that the supplier retains the ability to indefinitely defer appointments while denying a refund.

The supplier also engaged in unfair practices when consumers were advised consumers that a refund would be made available to them, but the supplier did not provide it. This represents an unfair practice under section 6 (3)(d), as the supplier misrepresented the rights and remedies that the complainants had available.