

IN THE MATTER OF THE PRIVATE TRAINING ACT, [S.B.C. 2015], C. 5  
AND IN THE MATTER OF  
an appeal to the Commissioner by DC School of Aesthetics

**BETWEEN:**

DC School of Aesthetics

**APELLANT**

**AND:**

The Registrar, Private Training Institutions Branch

**RESPONDENT**

**Counsel for the Appellant:** Jiwoo Choi

**For the Respondent:** Monica Lust

1. The appellant, DC School of Aesthetics (the “Appellant”) appeals the decision of the Registrar, Private Training Institutions Branch, (the “Registrar”) dated September 27, 2023 cancelling the Appellant’s registration certificate (the “Cancellation Decision”).
2. The *Private Training Act*, [S.B.C. 2015], c.5 (the “Act”) and associated regulations govern the many and various schools in the Province of British Columbia that offer private career training. An institution that wishes to offer training that is governed by the Act and regulations must meet all applicable standards and requirements set out in that legislation.
3. The Private Training Institutions Branch (PTIB) of the Ministry of Post-Secondary Education and Future Skills oversees the regulation of career training institutions that operate in British Columbia. The Act and associated regulations are consumer protection legislation designed to protect the interests of students and provide quality assurance.
4. The Registrar, appointed under section 57 of the Act, administers the Act and regulations, including issuing certificates and enforcing the standards and requirements of the legislation. If an institution fails to meet the standards or fulfill reporting requirements prescribed in the Act and regulations, the Registrar may suspend or cancel its certificate (Act, sections 36 and 37).

**BACKGROUND**

5. The following facts are not disputed and come in large part from the submission of the Registrar in this appeal which references the Appeal Record.
6. From November 2, 2017 to September 27, 2023, DC School of Aesthetics held a registration certificate for its location at 210-403 North Road, Coquitlam.

7. As of September 27, 2023, the Appellant had one program approved and listed with the PTIB, Advanced Skin Care for Skin Rejuvenation (the “approved program”). In addition the appellant had three programs not requiring approval listed with the PTIB: Microblading Basic Course, Microblading Master Course; and Advanced Laser and Light Treatments for Aestheticians.
8. In furtherance of ensuring compliance with standards applicable to the institution the Registrar conducts inspections of institutions, January 27, 2023 PTIB notified the Appellant that an inspection would be conducted on March 2, 2023. PTIB asked the Appellant to provide specific student and instructor records and recommended that the Appellant conduct a self-assessment prior to the scheduled inspection. PTIB provided compliance tips as well as a copy of the Inspection Report template that would be used by PTIB in completing the inspection.,
9. On March 2, 2023, following the inspection, PTIB asked the Appellant to provide specific records which were not included in student records during the inspection. The Appellant did not respond.
10. On April 28, 2023, PTIB issued an Inspection Findings and Requirements letter (the “findings letter”) identifying numerous contraventions of the Act, and associated regulations (cumulatively, the “Training Legislation”). The purpose of the findings letter is to set out requirements for the institution to meet and to provide it with an opportunity to respond. The letter specifies that the Registrar may take enforcement action in relation to any or all contraventions identified. The Appellant’s response was due on May 15, 2023. The requirements identified in the findings letter included:
  - a) Updating the Appellant’s website to correct the nature of its certification and to remove reference to EQA (Education Quality Assurance) as it did not have this designation.
  - b) Updating the Appellant’s website to remove reference to PTIB certification for a program offering that was not certified (Bon College).
  - c) Updating the Appellant’s website to ensure that tuition and related program fees, student enrolment contracts and program admission requirements matched those listed with PTIB.
  - d) Provision of various student records for current and graduated students, and
  - e) Providing evidence that 2 instructors met the required instructor qualifications.
11. No response to the findings letter was received on or before May 15, 2023. PTIB left a voice mail message on May 23, 2023 and followed up by mail on May 26, 2023 to remind the Appellant that its response to the findings letter was overdue. The Appellant did not respond.

12. On July 13, 2023, PTIB issued an Important Notice notifying the Appellant that its certificate would be cancelled if it failed to meet the requirements listed in the April 28, 2023 findings letter. The Important Notice includes the following statement: “The contraventions identified and the institutions lack of response suggest an inability or unwillingness to operate in compliance with the regulatory standards. Moreover, the contraventions directly impact students and are at the core of PTIB’s mandate of student protection”. Again the Appellant did not respond.
13. By letter dated August 11, 2023, the Registrar suspended the Appellant’s registration certificate until September 11, 2023 (the “suspension letter”). That letter states that in order for the suspension to be lifted, the Appellant must meet the requirements of reinstatement by September 11, 2023. The suspension letter also notified the Appellant that if it failed to meet the requirements of reinstatement by that date, the Registrar could issue a new suspension decision or cancel the Appellant’s certificate. The Appellant did not respond.
14. The Appellant did not respond to any of the PTIB’s communications following April 28, 2023 when the findings letter was issued.
15. The Appellant did not request a reconsideration of the suspension pursuant to the Act.
16. On September 27, 2023, the Registrar issued a letter cancelling the Appellant’s registration certificate (the “cancellation letter”). The cancellation letter set out the contraventions identified during the March 2, 2023 inspection which were the basis for the cancellation decision.
17. On October 25, 2023, the Appellant delivered its Notice of Appeal from that cancellation decision.

#### **ISSUES ON APPEAL**

18. The sole issue on this appeal is whether the cancellation decision should be upheld, varied or set aside.

#### **DISCUSSION**

19. The chronology of the Appellant’s conduct of this appeal is relevant to the narrative and the decision. Appeals of cancellation decisions are governed by the Training Legislation and also by the Commissioner’s Rules of Practice and Procedure for Appeals under Division 2 of Part 5 of the *Private Training Act* (the “Rules”) made under s.53 (b) of the Act.
20. The Registrar delivered the Appeal Record on November 21, 2023. Rule 16(a) required the Appellant to deliver its written submission on or before December 12, 2023. No submission was received on that date nor was there any request from the Appellant for an extension of time to deliver a response.



21. On December 18, 2023, the Registrar delivered an email citing the failure of the Appellant to provide its written submission in accordance with the Rules and requesting that the appeal file be closed without a determination as is provided in Rule 17, which states as follows:

If the appellant does not deliver written submissions, the commissioner will advise the parties in writing the appeal has been closed and no substantive decision will be rendered.

22. On December 19, 2023, I issued a direction to the parties establishing two deadlines. First, the Appellant was to advise by noon, December 20, 2023 if it intended to deliver a written submission in its appeal. Second, if it intended to deliver a written submission, an application under Rule 35 to extend the time limit for delivery of the Appellant's submission was required by December 21, 2023.

23. The Appellant delivered an email on December 20, 2023 advising that it did intend to make a written submission. No application under Rule 35 was received. Email from the Appellant sought information and guidance regarding the appeal procedure.

24. On December 22, 2023, I issued a decision applying Rule 35 and extended the time for delivery of the Appellant's submission to January 3, 2024 noting the responsibility of an appellant to research and comply with the legislation and Rules that governed its appeal. On December 30, 2023 the Appellant delivered its written submission.

25. The submission of the Appellant does not contest any of the PTIB findings on which the cancellation decision was based. It admits that it failed to respond or to remedy the contraventions the led to the cancellation decision. The submission discusses the challenges that it says it encountered in its management and program delivery. It seeks forgiveness for its shortcomings and expresses its intentions to remedy its past failures without elaborating on how or when it intends to do so. In particular, the Appellant says that it has hired new instructors to address deficiencies identified in the cancellation decision. In support, the submission of the Appellant attaches a resume of a person trained as a registered nurse.

26. The Registrar in their submission reviews the legislative purpose of the Training Legislation to protect the public. They note that there is no suggestion by the Appellant that there was any procedural unfairness during the inspection or decision making processes. The Registrar's position is that the cancellation decision was reasonable and justified in the circumstances and consistent with the legislative purpose. It says that the contraventions identified in the cancellation decision directly impact students and therefore engage the Registrar's student protection mandate. The Registrar highlights the Appellant's failure to provide instructor records despite PTIB's numerous requests as a result of which the Registrar is unable to verify whether the instructors meet the minimum instructor qualifications established in the *Private Training Regulation*.

27. The Registrar acknowledges that the inclusion of the resume of the registered nurse is an indication of the Appellant's future intentions. However, the Registrar's position is that actions to remedy contravention(s) taken after the cancellation decision cannot be a basis for overturning a decision. The Registrar notes the many unanswered opportunities given to the Appellant to address the contraventions in advance of the cancellation decision. It says that even if the resume attached to the Appellant's submission, which is not part of the Appeal Record, was found to be necessary for a full and fair disclosure of all matters related to the appeal as set out in Rule 14, that the education and experience disclosed in that resume would not meet the minimum qualifications established in the Private Training Regulation to teach a course in the approved program.

28. The Appellant has not responded to the Registrar's submission.

## **DECISION**

The following are my reasons for dismissing the appeal.

29. I agree with the following statement from *Blue Bird Flight Academy Inc., v. The Registrar, Private Training Institutions Branch*, July 6, 2018, ID-03810 at paragraph 55:

It seems to me that the Legislature, in enacting the PTA and PTR, aimed to create a scheme whereby students would be provided with a program designed to meet their objectives and the institutions providing those objectives would be governed by provisions designed to ensure that compliance.

30. Further, I agree with the Registrar's submission that it has a duty to ensure institutions are operating in compliance with the legislation. Here, the Registrar identified deficiencies in the operation of the Appellant's institution and gave ample opportunity for it to remedy those contraventions prior to issuing the Cancellation Decision. In particular the Appellant repeatedly failed to respond to correspondence including the April 28, 2023 inspections and findings letter, the July 13, 2023 Important Notice and the August 11, 2023 Suspension Letter. The Appellant's failure to respond and continued failure to comply led to the Registrar's decision to cancel the certificate of the Appellant.

31. It is also noted that although this appeal was brought in a timely way, the Appellant did not deliver its submission in accordance with the Rules governing the appeal process indicating an inability or unwillingness to learn and apply the legislation and rules that govern it. In addition, the Appellant appended a document to its submission that was not part of the appeal record without seeking the requisite permission provided for in the Rules to do so. In this case, the Registrar did not object to the inclusion of the resume attached to the Appellant's submission and so I have considered it in this decision. The Registrar says that the qualifications detailed in that resume are not sufficient to meet the requirements in the Regulations. This statement is not contested by the Appellant. Even if the qualifications were sufficient, it would not change the outcome of this appeal because the decision is based on the totality of the deficiencies identified and enumerated in the findings letter and

the persistent non-compliance of the Appellant with the Training Legislation which has been demonstrated by the Registrar. I therefore make no decision on the qualifications set out in the resume are sufficient.

32. I also note that there is no suggestion by the Appellant that the findings of the inspection were flawed or inaccurate or that there was any procedural unfairness in how the inspections were conducted and decisions made. Further the Appellant does not suggest that the cancellation of its certificate is disproportionate to the seriousness of the contraventions identified by the Registrar or that they are unreasonable or unnecessary.

33. The submission of the Appellant is an expression of its assessment of the causes for the deficiencies that led to the cancellation of its certificate and its future intentions for program delivery and management of the institution. I do not question the sincerity of the expressed intentions, however, those sentiments provide no legal or factual basis on which to overturn or vary the decision of the Registrar to cancel the certificate of the Appellant and I decline to do so.

34. The Registrar has not sought costs in this appeal and so no decision is made in that regard.

  
Maureen E. Baird, KC

Acting Commissioner