

IN THE MATTER OF:

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

AND IN THE MATTER OF:
AN ADJUDICATION UNDER SECTION 62,
REQUESTED BY [M.H.] ON MAY 27TH, 1997

REASONS FOR DECISION
OF THE
HONOURABLE MADAM JUSTICE D. SMITH

[1] [Mr. H.] has applied pursuant to s. 62 of the *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165 (the “ACT”) for a review of the decision made by the Information and Privacy Commissioner (the “Commissioner”) in response to his access request.

[2] This is [Mr.H. 's] third adjudication under s. 62 of the Act. I rendered my decision in [Mr.H. 's] second adjudication [Adjudication order no. 8] on March 23, 1998. In that decision I outlined [Mr.H. 's] long history of making requests for information, applications for judicial review, and requests for adjudication under the Act. I also discussed the scope of adjudication under the Act, including the fact that operational records, including case files, are excluded from the scope of Act.

[3] [Mr. H.] did not file submissions in either of his previous adjudication's. However, the Commissioner had no option but to file lengthy submissions, presumably at great cost, in both cases to assist the adjudicator.

[4] [Mr. H.] made his present request to the Commissioner on September 3, 1997. He asked for “case records or any like record of my filing for reviews on other public bodies.” On October 14, 1997, [Mr. H. 's] request for access to those files was denied by the Commissioner's office.

[5] Having been appointed as an adjudicator in this matter, I took the unusual step of proceeding with the adjudication without seeking submissions from the parties. I am firmly of the view that submissions are not necessary in this case. Case records, case files, and other documents that relate to the Commissioner's role qua Commissioner are “operational records” and are excluded from the scope of the Act pursuant to s. 3(1)(c): See my decision *In the Matter of an Adjudication under Section 62 of the Freedom of*

Information and Protection of Privacy Act Requested by [Mr. M.] (5 January 1998)
[Adjudication order no. 7].

[6] This is not an arguable point. The records are clearly excluded. *[Mr. H. 's]* history indicates that he views the adjudication process as a means of challenging the decisions of the Commissioner that relate to his ongoing dispute with the Ministry of Social Services. The adjudication process is not another avenue for judicial review of the commissioner's decisions. It is narrowly focused on reviewing a very limited number of decisions of the Commissioner as head of a public body.

[7] For these reasons, I dispose of this adjudication pursuant to ss. 58(1) and 65(2) by confirming the Commissioner's response to *[Mr. H. 's]* request for the records.

The Honourable Madam Justice D. Smith