

**Office of the Information and Privacy Commissioner  
Province of British Columbia  
Order No. 228-1998  
April 24, 1998**

**INQUIRY RE: The adequacy of the Ministry of Human Resources' search for records**

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**1. Description of the review**

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on March 5, 1998 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of the Ministry of Human Resources' (the Ministry) response to the applicant's request for access to his personal records.

**2. Documentation of the inquiry process**

On February 19, 1997 the applicant requested copies of his personal records from January 1993 to the present, that were held by the Ministry. On February 28, 1997 the Ministry informed the applicant that it had received his request and that, due to a backlog of requests, it might take the Ministry up to three to four months to respond. On November 7, 1997 the Ministry disclosed most of the requested records and withheld the remainder under section 15, 19 and 22.

On November 29, 1997 the applicant asked the Office of the Information and Privacy Commissioner (the Office) to review the Ministry's decision to withhold some of the requested records and to obtain a complete copy of all records related in any way to the applicant during the time that he received services from the Ministry.

During mediation, the issues related to the withheld information were resolved, but further issues surfaced regarding the completeness of the disclosed records. On February 5, 1998 the applicant indicated that he was still concerned about the lack of documentation that he had received in response to his request, and that he would like to proceed to an inquiry before the Information and Privacy Commissioner.

On February 10, 1998 the Office gave notice to the applicant and the Ministry that a written inquiry would take place on March 5, 1998.

### **3. Issue under review and the burden of proof**

The issue to be reviewed is the adequacy of the Ministry's search, under section 6 of the Act, for records that respond to the applicant's request of February 19, 1997.

The relevant section of the Act is as follows:

#### ***Duty to assist applicants***

- 6(1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely

Section 57 of the Act, which establishes the burden of proof on the parties to this inquiry, is silent with respect to the issue of adequate search. In Order No. 103-1996, May 23, 1996, I decided that the burden of proof in such cases rests with the public body.

### **4. The records in dispute**

The records in dispute in this inquiry are personal records about the applicant related to his receipt of services from the Ministry.

### **5. The applicant's case**

The applicant did not make an initial or reply submission in this inquiry.

### **6. The Ministry's case**

The Ministry has provided the applicant and me with a full description of the background to the applicant's request and how it went about responding to it. See submission of the Ministry, paragraphs 1.02 to 2.01. It submits that it has discharged its obligation to conduct a reasonable search for records responsive to the applicant's request.

### **7. Discussion:**

#### ***Section 6: Duty to Assist Applicants***

The meaning of this section has been well developed in previous Orders. The Ministry is only required to show that it has made every reasonable effort to search for and identify the records responsive to the request.

The Ministry has provided the applicant and me with a full description of its search efforts in this matter. (Submission of the Ministry, paragraphs 4.05 to 4.14)

It is submitted that the Public Body has conducted a thorough and comprehensive search, making efforts that fair and rational people would expect to be made and would find acceptable. (Submission of the Ministry, paragraph 4.14)

I find that the Ministry has made an adequate search as required by section 6 of the Act.

## **8. Order**

Section 58(1) of the Act requires me to dispose of the issues in an inquiry by making an order under this section. I find that the search conducted by the Ministry of Human Resources in this case was a reasonable effort within the meaning of section 6(1).

Under section 58(3)(a), I require the Ministry of Human Resources to perform its duty under section 6(1) to make every reasonable effort to assist the applicant. However, since I have found that the search conducted was reasonable, I find that the Ministry of Human Resources has complied with this Order and discharged its duty under section 6(1) of the Act.

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David H. Flaherty  
Commissioner

April 24, 1998