



**Information and Privacy  
Commissioner/Ontario**  
**Commissaire à l'information  
et à la protection de la vie privée/Ontario**

# **ORDER P-335**

**Appeal P-920176**

**Ontario Hydro**



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# ORDER

Ontario Hydro (the institution) received a request for access to two performance appraisals of the requester, and a copy of notes taken at a December 5, 1991 meeting attended by the requester and other employees of the institution.

The institution granted access to the performance appraisals, and advised the requester that the notes did not exist. According to the requester, one of the persons attending the meeting created notes which reflected discussions at the meeting. The institution asked this person to create a record from memory, outlining what had occurred at the December 5 meeting. This record was created and provided to the requester.

The requester appealed the institution's decision, claiming that notes of the meeting did exist.

During the course of mediation, the institution provided two letters which supported its position that the notes did not exist; one from the alleged author of the notes, and the other from another person who was at the meeting and who the appellant felt could confirm the fact that notes were taken. These letters were provided to the appellant, but he still maintained that notes existed.

Because further mediation was not possible, the appeal proceeded to inquiry. Notice that an inquiry was being conducted to review the decision of the head was sent to the appellant and the institution. Enclosed with the Notice of Inquiry was a report prepared by the Appeals Officer, intended to assist the parties in making their representations concerning the subject matter of the appeal. Representations were received from both parties. The Appeals Officer assigned to the appeal also arranged to record portions of a tape which the appellant said was made by him of the December 5 meeting.

The sole issue in this appeal is whether a reasonable search for records responsive to the request was carried out by the institution.

In its representations, the institution outlines the steps taken in order to locate the notes. Attached to the representations was an affidavit signed by the alleged author of the notes, wherein he states that the only notes he took at the December 5 meeting were "jotting down [the appellant's] proposed settlement terms". He goes on to state that these notes were referred to during conversations with his supervisor at a subsequent meeting on December 5, then destroyed. While acknowledging that he did create "notes" at the meeting, in my view, the author provides a credible explanation as to why these notes no longer exist. He also identifies the various areas which were searched in order to locate the notes.

I have reviewed the appellant's representations and listened to the tape, and, in my view, they do not provide sufficient evidence to support the appellant's claim that the notes are still in existence. The tape makes reference to changes being made to a statement given by the appellant at a meeting held on September 19, 1991. This amended statement was provided to the appellant during the course of the appeal.

In my view, the submissions provided by the institution substantiate the position that a reasonable search was conducted, and I find that the actions of the institution in responding to the appellant's request were reasonable and satisfactory in the circumstances.

Original signed by: \_\_\_\_\_  
Tom Mitchinson  
Assistant Commissioner

\_\_\_\_\_ August 5, 1992