



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

ORDER P-683

Appeal P-9400208

Ontario Public Service Labour Relations Tribunal



80 Bloor Street West,
Suite 1700,
Toronto, Ontario
M5S 2V1

80, rue Bloor ouest
Bureau 1700
Toronto (Ontario)
M5S 2V1

416-326-3333
1-800-387-0073
Fax/Télééc: 416-325-9195
TTY: 416-325-7539
<http://www.ipc.on.ca>

ORDER

The Ontario Public Service Labour Relations Tribunal (the Tribunal) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to all grievance records involving the Psychiatric Patient Advocate Program (the PPAP) for a specific time period.

The Tribunal responded by extending the time for issuing its decision letter by an additional 104 days to June 23, 1994 for the following reasons:

[the] request requires a search through an extensive number of records and meeting the thirty day time limit would unreasonably interfere with the operations of our institution; and consultations with a person outside the institution are necessary ... and these can not reasonably be completed within the time limit.

The requester appealed the decision of the Tribunal to extend the statutory thirty day time limit. The requester simultaneously filed an appeal from a decision of the Ontario Crown Employees Grievance Settlement Board (the Board) relating to a request for similar records. The Tribunal and the Board share administrative and personnel resources to the extent that the same individual functions as the Registrar for both the Tribunal and the Board. Appeal Number P-9400208 was assigned to both appeals. While the issues and the appellant are the same in both the appeals, the institution is different. Therefore, I will issue a separate order in respect of each appeal.

Notice that an inquiry was being conducted to review the decision of the Tribunal was sent to the Tribunal and the appellant. Representations were received from both parties.

The Tribunal received the request on February 9, 1994. Pursuant to section 26 of the Act, unless a time extension is invoked, the Tribunal is required to issue its decision letter by March 11, 1994. On March 25, 1994 the Tribunal extended the response date by an additional 90 days to June 23, 1994, for a total extension of 104 days.

The sole issue in this appeal is whether the extension of time claimed by the Tribunal, under section 27(1), to respond to the request, is reasonable in the circumstances of this appeal. The Tribunal has made no representations regarding its need for outside consultation and, therefore, I will not consider the application of section 27(1)(b) of the Act.

Section 27(1)(a) of the Act provides that:

A head may extend the time limit set out in section 26 for a period of time that is reasonable in the circumstances, where,

the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit would unreasonably interfere with the operations of the institution;

The appellant submits that the time extension invoked is excessive based upon the nature of the records sought, which exclude any personal information. The appellant claims that the Tribunal has based at least part, if not all of its decision, on the total records responsive to this and other requests made to other institutions with which the Tribunal may share resources, instead of treating and viewing each request individually.

In Order 28 former Commissioner Sidney B. Linden states:

... in invoking section 27, the head must address him or herself to whether **any particular request** involves a large number of records or consultations that cannot reasonably be completed within the 30 day time limit. I do not believe that section 27 lends itself to the interpretation that, where the response to a number of separate requests by the same individual, which collectively involve a large number of records or necessitate consultation, section 27 is properly triggered.

I agree with the approach taken by former Commissioner Linden and, in my view, this approach could apply equally to situations where two or more institutions share administrative and other resources. While this arrangement reflects a prudent use of resources and is particularly commendable in the current economic climate, in my view, section 27 can only be properly triggered by the head upon considering "whether **any particular request** involves a large number of records ... that cannot reasonably be completed within the 30 day time limit."

In its representations, the Tribunal has included a sworn affidavit from its Registrar. In the affidavit, the Registrar states that the Tribunal's filing system is not indexed to include the topic which is the subject of the request (the PPAP) and consequently each file will have to be searched. The affidavit indicates that the time period encompassed by the request will require a total of 467 files to be searched and that each file will take at least 15 minutes to search. Some of these files may be closed and will have to be recalled from storage. Finally, that the Tribunal submits that it is "... not in a position to devote a full time employee to any of these tasks ...".

I have carefully reviewed the representations of the parties and I am not satisfied that the request is for a large number of records or that it will necessitate a search through a large number of records and that meeting the time limit would unreasonably interfere with the operations of the Tribunal. I find that the time extension of an additional 104 days invoked by the Tribunal is not reasonable in the circumstances of this appeal.

ORDER:

1. I order the Tribunal to provide a decision letter to the appellant regarding access to the records in accordance with the Act within fifteen (15) days of the date of this order.
2. In order to verify compliance with this order, I order the Tribunal to provide me with a copy of its decision letter on access referred to in Provision 1 within five (5) days of the date that the notice of decision is sent to the appellant. The notice should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1

Original signed by: _____
Mumtaz Jiwan
Inquiry Officer

_____ May 17, 1994