



Information and Privacy  
Commissioner/Ontario

Commissaire à l'information  
et à la protection de la vie privée/Ontario

## **ORDER P-847**

Appeal P-9400558

Ministry of Finance



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>

## **NATURE OF THE APPEAL:**

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The Ministry of Finance (the Ministry) received a request for information pertaining to four named positions. As subsequently clarified, the appellant's request was for the official job specifications, physical demands analyses and salary ranges for the following positions within the Ontario Insurance Commission (the Commission):

- Senior Arbitrator(s)
- Director
- Superintendent
- Commissioner.

Access was also requested to the Commission's organization chart.

In its response to the request, the Ministry granted access to the organizational chart, the job specifications for all positions referred to in the request with the exception of the Commissioner, and the salary ranges for all specified positions.

Access was not granted to the Commissioner's job description, nor to physical demands analyses of any of the specified positions, on the basis that these records do not exist.

The appellant appealed the Ministry's finding that no job specification, or similar record, exists for the Commissioner. Accordingly, the sole issue in this appeal is whether the Ministry conducted a reasonable search for a job specification, or similar record, with respect to the position of Commissioner.

A Notice of Inquiry was sent to the appellant and the Ministry. Representations were submitted by both parties.

## **DISCUSSION:**

### **REASONABLENESS OF SEARCH**

Where the requester provides sufficient details about the records which he is seeking and the Ministry indicates that such records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Ministry to prove with absolute certainty that the requested records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

The Ministry's representations included an affidavit sworn by the Human Resources Consultant (the consultant) who searched for responsive records. The affidavit indicates that the consultant searched the job specifications files within the Ministry's Human Resources Branch, and no specifications for the position of Commissioner were located. The consultant's affidavit also indicates that, to the best of his knowledge, no specifications were created for this position.

The appellant's representations express his consternation that no job specifications exist for this position, and his inability to reconcile the existence of specifications for the other positions named in his request with the lack of specifications for the position of Commissioner. In my view, these representations do not advance the appellant's case that such a record must exist. I accept the evidence of the Ministry concerning its search, which I find was reasonable in the circumstances of this appeal.

**ORDER:**

I uphold the decision of the Ministry.

Original signed by:  
John Higgins  
Inquiry Officer

January 24, 1995