



Information and Privacy
Commissioner/Ontario

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

ORDER P-897

Appeal P-9400519

Ontario Insurance Commission



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). The appellant has submitted a request to the Ontario Insurance Commission (the OIC) for access to "all information pertaining to myself, that the [OIC] has, in connection to all mediation(s), arbitration(s) and appeal(s) ...".

The Minister of Finance is the "head" of the OIC for the purposes of the Act. Requests and appeals under the Act are dealt with on behalf of the OIC by the Ministry of Finance (the Ministry). For ease of reference, this order will refer to actions taken by the Ministry on the OIC's behalf as actions of the OIC.

The OIC responded to the request by granting full access. The appellant was permitted to view all responsive records located by the OIC. Subsequently, a copy of the records was provided to the appellant.

The appellant filed an appeal from this decision on the basis that he was not provided with all of the responsive records. The letter of appeal listed several examples of records which, in the appellant's view, should have been in the OIC's custody.

A Notice of Inquiry was sent to the appellant and the OIC. Representations were received from both parties.

DISCUSSION:

REASONABLENESS OF SEARCH

Where the requester provides sufficient details about the records which he is seeking and the OIC indicates that such records do not exist, it is my responsibility to ensure that the OIC has made a reasonable search to identify any records which are responsive to the request. The Act does not require the OIC 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 OIC must provide me with sufficient evidence to show that it has made a **reasonable** effort to identify and locate records responsive to the request.

During the course of the appeal, and in his representations, the appellant has submitted several lists of categories of records which he feels should have been provided. In my view, many of these categories do not relate to the appellant's "mediations, arbitrations, and appeals", which were the subject of the original request. In the circumstances of this appeal, I am not prepared to permit the appellant to expand the parameters of his request.

The OIC's representations include an affidavit sworn by the Executive Co-ordinator/Registrar of the OIC's dispute resolution group. Having reviewed this affidavit, and the other materials submitted to me by the parties, I find that the steps taken by the OIC were reasonable and appropriate in the circumstances.

The OIC's representations also contain argument to the effect that this appeal is frivolous and vexatious, and an abuse of process. This issue is currently being considered in another appeal. Because of the finding I have just made, I am of the view that it is not necessary for me to consider this issue in this particular case.

ORDER:

I uphold the OIC's decision.

Original signed by: _____
John Higgins
Inquiry Officer

_____ March 31, 1995