



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

ORDER P-1118

Appeal P_9500659

Criminal Injuries Compensation Board



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NATURE OF THE APPEAL:

The Criminal Injuries Compensation Board (the Board) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of the requester's two claim files with the Board.

The Board granted access in full to the approximately 400 pages of records in both files. The requester refused to take his copy of the records claiming that they were incomplete and, subsequently, appealed the Board's decision claiming that further records should exist.

During mediation, it was established that, specifically, the requester was claiming that medical reports prepared by four named physicians and a psychotherapist or psychometrist were not included in the records provided to him by the Board.

A Notice of Inquiry was provided to the Board and to the appellant. Representations were received from both parties. The sole issue to be determined in this appeal is whether the Board's search for records responsive to the appellant's request was reasonable in the circumstances.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he or she is seeking and the Board indicates that such a record does not exist, it is my responsibility to ensure that the Board has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Board to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Board 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 Board has submitted the sworn affidavits of the three Board employees involved in the search to locate responsive records. The affidavits indicate that all records responsive to the request have been provided to the appellant. They also include an explanation of the several attempts to provide the appellant with an understanding of the documents provided to him and to address his continuing concerns that the files are not complete. The affidavits go on to submit that no further responsive records exist.

I have reviewed the responsive records and I note that they include the Board's requests to and reports from many medical professionals. Specifically, with respect to the five medical professionals referred to by the appellant, the records show that three were asked by the Board for medical reports but only one responded, however, the one that did respond included information from one of the others. With respect to the remaining two, the Board points out that it is not its policy to obtain reports from every doctor who may have seen a claimant. The records do not include a request from the Board for a report from the remaining two doctors.

The appellant submits that the Board asked him to sign consent forms in order that the Board could obtain the necessary medical information and further submits that a Board employee informed him that such reports were received and, therefore, should be on file. While I

understand the appellant's concerns in this regard, whether or not this information should be in the files for the purposes of processing his two claims is not a factor relevant to the determination of whether the search for such records was reasonable.

I have considered the representations of the parties and I find that the Board's search for records responsive to the appellant's request was reasonable in the circumstances of this appeal.

ORDER:

I uphold the Board's decision.

Original signed by: _____
Holly Big Canoe
Inquiry Officer

_____ February 7, 1996