



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2182

Appeal PA-030310-1

Ministry of Health and Long-Term Care



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NATURE OF THE APPEAL:

This is an appeal under the *Freedom of Information and Protection of Privacy Act* (the *Act*).

On June 1, 2003, the requester submitted a request to the Ministry of Health and Long-Term Care (the Ministry) for all documents, correspondence and e-mails from the Ministry, the provincial operations centre, which oversaw the management of the SARS crisis and Toronto Public Health relating to the timing and reasons regarding the decision to switch to Health Canada's case definition for probable and suspect SARS cases from the World Health Organization's case definition.

The documents covered the period from mid-March to mid-June, 2003.

Section 26 of the *Act* requires the Ministry to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Ministry is in a "deemed refusal" situation pursuant to subsection 29(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

The Ministry did not issue a decision within the 30 days, nor did it request a time extension to process the request under section 27(1) of the *Act*. Accordingly, the Ministry placed itself in a "deemed refusal" situation pursuant to section 29(4) of the *Act*.

On June 26, 2003, the Ministry wrote to the appellant acknowledging receipt of her request dated June 1, 2003.

On September 2, 2003 the requester (now the appellant) wrote to the Information and Privacy Commissioner/Ontario (IPC) indicating the Ministry had not responded to her request under the *Act*.

On September 5, 2003, a Notice of Inquiry was issued to both the appellant and the Ministry stating that the Ministry was in a deemed refusal situation. The Notice also advised that if a decision was not issued by September 19, 2003, I would be in a position to issue an order requiring the Ministry to provide a decision letter to the appellant.

On September 11, 2003, I was advised by a Program Analyst in the Freedom of Information Unit at the Ministry of Health and Long-Term Care that it was possible a decision would be issued by the September 19, 2003 deadline.

On September 22, 2003, I contacted the Program Analyst to ensure a decision had been issued, but was informed the information had recently been received and he was hoping to have a decision out by September 26, 2003.

The appellant rejects any further delay on the Ministry's part to respond to his request.

ORDER:

1. I order the Ministry to issue a decision letter to the appellant regarding access to the records in accordance with the *Act* and without recourse to a time extension, no later than **October 1, 2003**.
2. In order to verify compliance with Provision 1 of this Order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **October 1, 2003**. This 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: _____
Enza Ragone
Acting Adjudicator

September 25, 2003 _____