



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2428

Appeal PA-050255-1

Ontario Human Rights 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 requester submitted an access request to the Ontario Human Rights Commission (the OHRC) for the complete file concerning a named daycare facility.

By letter dated June 2, 2005, the OHRC advised that it was extending the time for responding to the request by 30 days effective June 2, 2005, pursuant to section 27 of the *Act*.

On September 17, 2005, the requester (now the appellant) wrote to this office indicating that she received the OHRC's June 2, 2005, letter on September 9, 2005, and as of the date of her appeal she had still not received a reply to her request. Appeal PA-050255-1 was opened.

Section 26 of the *Act* requires the OHRC to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the OHRC 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.

On October 5, 2005, this office sent a Notice of Inquiry to both the appellant and the OHRC stating that the OHRC was in a deemed refusal situation. The Notice also advised that if a decision was not issued by October 20, 2005, I would be in a position to issue an order requiring the OHRC to provide a decision letter to the appellant.

I contacted the Freedom of Information and Protection of Privacy Co-ordinator (the FOIC), for the OHRC, on October 12, 2005, with respect to this matter. The Co-ordinator advised that there was a delay in issuing a decision because the records were being used in another matter connected to the appellant and requesting the records to process the appellant's request would have delayed a settlement of the other matter in which the appellant had an interest. The FOIC advised that the other matter had recently concluded and she had since requested the records. She indicated that she was not sure when she would receive the records and whether she would be able to issue a decision by October 20, 2005.

I contacted the FOIC again on October 19, 2005, regarding the status of a decision. The FOIC advised me that she had contacted the appellant and advised her that she would be able to issue a decision by November 24, 2005. The FOIC indicated that the appellant agreed to wait until then for a decision.

On October 24, 2005, I spoke to the appellant who confirmed that she was prepared to wait until November 24, 2005, but not later, for the OHRC to issue a decision.

To ensure that there are no further delays in processing this request, I am ordering the OHRC to issue a decision regarding access.

ORDER:

1. I order the OHRC 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 **November 24, 2005**.
2. In order to verify compliance with Provision 1 of this Order, I order the OHRC to provide me with a copy of the decision letter referred to in Provision 1 by **November 24, 2005**. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8.

Original signed by: _____
Lucille Sorin
Intake Analyst

_____ November 17, 2005