

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4661

Appeal PA24-00131

Tribunals Ontario

May 30, 2025

Summary: The appellant asked Tribunals Ontario for records related to vaccine passports, vaccine mandates and exemption grounds. The requester filed an appeal with the IPC because the tribunal did not issue an access decision within the prescribed time limit. The decision-maker agrees that the tribunal is deemed to have refused the access request under section 29(4) of the *Act* and orders the tribunal to issue a final access decision by June 20, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, as amended, sections 26 and 29.

BACKGROUND:

[1] On November 5, 2023, the appellant submitted an access request to Tribunals Ontario (the respondent) under the *Act* for:

As a formal FOI request please urgently provide all Tribunals Ontario records/communications re vaccine passports, vaccine mandates and or proof of vaccine certificates, as well as as *[sic]* same for any records/communications regarding [a specific gym's] "FastPass" / "Fast Pass" system, using those keywords. Also provide all records and communications in possession of any agency regarding exemptions on medical or conscience or religious etc or human rights code grounds to vaccine passports, vaccine mandates and proof of vaccine certificates. Also provide all records and drafts and communications re the [Ontario Human

Rights Commission's] September 22, 2021 statement entitled OHRC Policy statement on COVID-19 vaccine mandates and proof of vaccine certificates. Ecopies requested only. The time period is Jan 1 2020 to Nov 5 2023.

[2] On November 29, 2023, the respondent advised the appellant that the request was a freedom of information request and that a five-dollar fee was required to proceed with the request. The appellant sent a cheque by mail.

[3] On December 13, 2023, the respondent confirmed receipt of the appellant's fee.

[4] On January 30, 2024, the respondent asked if the appellant would narrow the scope of the request.

[5] On February 4, 2024, the appellant responded that the request was intended to cover the Human Rights Tribunal of Ontario (the HRTTO) and not other tribunals. Additionally, he advised that a keyword search could be completed in 365 email services, which removed the need for specific names and inboxes, as requested by the respondent.

[6] On February 8, 2024, the respondent advised that it would review the appellant's "clarification" and would continue processing the request.

[7] On March 3, 2024, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (the IPC) when the respondent failed to issue a decision to the appellant within 30 days of the access request. File PA24-00131 was opened.¹

[8] On March 16, 2025, I was assigned this appeal as case lead.

[9] On April 7, 2025, I asked the respondent if a final access decision was issued and for a copy of the decision letter. The respondent was advised to issue a final access decision to the appellant by April 14, 2025 if it had not already done so.

[10] On April 14, 2025, the respondent advised that the request had been processed by staff who has now retired and it required until May 9, 2025 to prepare a decision letter.

[11] On April 15, 2025, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, requiring the respondent to issue a final decision in response to the access request by May 6, 2025.

[12] To date, the respondent has not issued a final access decision.

[13] Considering this and to ensure there are no further delays in processing this request, I will order the respondent to issue a final access decision to the appellant.

¹ This appeal was placed on hold due to file processing limits.

DISCUSSION:

[14] Section 26 of the *Act* states that the head of an institution shall, subject to sections 27 (time extension), 28 (third party notice) and 57 (payment of fees), give written notice of its decision on an access request within 30 days after the request is received.

[15] Where a head fails to issue a decision on access within the legislated framework, section 29(4) of the *Act* applies. This section 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.

[16] Previous IPC orders have found that a decision to extend the time for responding to a request² and/or an interim decision/fee estimate³ should be issued within the initial 30-day time limit for responding to a request.

[17] Where a time extension is not claimed, or an interim decision/fee estimate is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, subject to section 28 and 57 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of this 30-day time limit, the institution would be in a “deemed refusal” pursuant to section 29(4) of the *Act*.

[18] Previous IPC orders have found that issuing a time extension⁴ or an interim decision/fee estimate⁵ once the 30-day time limit has expired does not cure a deemed refusal.

[19] Although the appellant submitted the request on November 5, 2023, the request was not formalized until the appellant paid the required five dollar fee. The respondent confirmed receipt of the payment on December 13, 2023. The respondent would have had 30 days from the date the request was formalized to respond to the request. In the absence of a formal acknowledgement to the appellant, the 30 days to respond would have begun from the date it confirmed receipt of the payment on December 13, 2023. Additionally, the respondent attempted to narrow the scope of the request after it had passed the prescribed time to respond.

[20] The appellant’s access request was formalized on December 13, 2024. The respondent did not request an extension of time to respond to the access request. As of

² Orders MO-1520-I, PO-2634.

³ Orders P-234, M-439 M-581, MO-1748 and PO-2634.

⁴ Orders MO-1777 and PO-2634.

⁵ Orders PO-2595 and PO-2634.

today's date, the respondent has not issued a final access decision, despite the appellant filing this appeal with the IPC and the issuance of a Notice of Expedited Inquiry, encouraging it to do so by May 6, 2025.

[21] Therefore, I find the respondent to be in a deemed refusal situation under section 29(4) of the *Act*.

[22] To ensure that there are no further delays, I will order the respondent to issue a final access decision to the appellant.

ORDER:

1. I order the respondent to issue a **final** access decision to the appellant regarding access to the records in accordance with the *Act* and without recourse to a time extension, by **June 20, 2025**.
2. To verify compliance, the respondent shall provide me with a copy by email of the decision referred to in provision 1 by **June 20, 2025**.

Original Signed by: _____

Asma Mayat
Case Lead

May 30, 2025