



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER 25**

**Appeal 880174**

**Ontario Labour Relations Board**



80 Bloor Street West,  
Suite 1700,  
Toronto, Ontario  
M5S 2V1

80, rue Bloor ouest  
Bureau 1700  
Toronto (Ontario)  
M5S 2V1

416-326-3333  
1-800-387-0073  
Fax/Télééc: 416-325-9195  
TTY: 416-325-7539  
<http://www.ipc.on.ca>

Appeal Number 880174

O R D E R

This appeal was received pursuant to subsection 50(1) of the Freedom of Information and Protection of Privacy Act, 1987, (the "Act") which gives a person who has made a request for access to a record under subsection 24(1) a right to appeal any decision of a head under the Act to the Commissioner.

The facts of the case are as follows:

1. On May 2, 1988, the Ontario Labour Relations Board (the "institution") received an access request from the appellant for "[t]he written reports of J. Bowman, Conciliation Officer, for the following meetings held on; 1/April 27, 1988 and 2/May 19, 1988, which were both held at 400 University Avenue, Toronto".
2. On May 17, 1988, the institution advised the requester:

"Reports of Labour Relations Officers are exempt from disclosure under subsection 111(6) of the Labour Relations Act which reads as follows:

No information or material furnished to or received by a labour relations officer under this Act and no report of a labour relations officer shall be disclosed except to the Board or as authorized by the Board, and no member of the Board and no labour relations officer is a competent or compellable witness in proceedings before a court, the

Board or other tribunal respecting any such information, material, or report.

Because this confidentiality provision prevails over the Freedom of Information Act, the Report cannot be released".

3. On June 16, 1988, I received a letter from the requester appealing the decision of the institution. The appellant stated: "...it is my right and prerogative to want to feel comfortable that the written report is indeed that of the topics entertained at the said meetings and not other interpretations."
4. Efforts were made by an Appeals Officer to settle the matter. However, both parties sought resolution of the issues by way of an inquiry.
5. By letter dated September 6, 1988, I sent notice to the head of the institution and the appellant, advising that I was conducting an inquiry and asking for written representations.
6. Written representations were received from both parties and reviewed by me.

The issues raised by this appeal are identical to those raised by Appeal No. 880028. These issues are:

- A. Whether the legislative provision relied on by the institution is a "confidentiality provision" barring the application of the Act.

B. If the answer to Issue A is in the affirmative, whether the record in question falls within the scope of the "confidentiality provision" relied on.

The nature of the records requested, the head's decision and the representations of the head received in regards to this appeal are virtually identical to Appeal 880028. The representations of the appellant raise no issues or arguments that were not fully addressed in that previous appeal.

In view of the above, the disposition of the issues raised by this appeal is the same as in Appeal 880028. As I stated in my Order in Appeal 880028, as Information and Privacy Commissioner, I am charged with the responsibility of ensuring that the rights and obligations set out in the Freedom of Information and Protection of Privacy Act, 1987 are respected and complied with. Where, as in this case, an institution purports to remove itself from the ambit of the Act through the use of a "confidentiality provision" in another act, it is my responsibility to scrutinize the provision of that other act to ensure that both the subject matter and the person who would be releasing the requested information under that act are covered by the "confidentiality provision" relied on. I have done so in this case and for the reasons given in my Order in Appeal 880028, released October 13, 1988, I find that, in the circumstances of this appeal, subsection 111(6) of the Labour Relations Act operates as a "confidentiality provision" barring the application of the Freedom of Information and Protection of Privacy Act, 1987, in respect of the information requested. Accordingly, the decision of the head is upheld and the appeal is dismissed.

As stated in my Order in Appeal 880028, subsection 111(6) of the Labour Relations Act contains a discretionary power that has

been accorded to the Board to disclose information obtained by a labour relations officer as well as the report of a labour relations officer. As this particular "confidentiality provision" will bar the application of the Freedom of Information and Protection of Privacy Act, 1987 until January 1, 1990, I encourage the institution to suggest to Boards, when they are involved in a particular case, to consider the release of information such as a report of a labour relations officer, to those involved in the case.

Original signed by: \_\_\_\_\_  
Sidney B. Linden  
Commissioner

\_\_\_\_\_ October 24, 1988  
Date