



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

ORDER P-674

Appeal P-9300437

Ministry of Community and Social Services



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ORDER

BACKGROUND:

The Ministry of Community and Social Services (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to information relating to the requester's employment history with the Ministry. The requester specifically wished to receive copies of any documents which might indicate the date upon which she began her Developmental Secondment as a Telecommunications Officer in the Accommodation Section of the Ministry.

In response to this request, the Ministry granted the requester access to an inter-office memorandum from an individual in its Financial and Capital Planning Department, dated July 12, 1993. This document states, in part, that:

If memory serves me correctly, it was sometime in the fall of 1989 that you assumed the position in Telecommunications.

The requester took issue with the contents of this memorandum as she believed the starting date for her Developmental Secondment was earlier than that specified in the document. She then requested, pursuant to section 47(2)(a) of the Act that the Ministry correct its records to reflect a starting date earlier than "in the fall of 1989". The Ministry refused to do so. Instead, the Ministry advised the requester that, pursuant to sections 47(2)(b) and (c) of the Act, it was prepared to attach to its records a statement of disagreement from the appellant, and to notify any person or body to whom the information about her starting date had been disclosed in the previous year, of the statement of disagreement. The requester appealed the Ministry's decision to the Commissioner's office.

The mediation of this appeal was not successful and notice that an inquiry was being conducted to review the Ministry's decision was sent to the appellant and the Ministry. Representations were received from both parties.

ISSUES:

- A. Whether the information in respect of which a correction request has been made qualifies as the appellant's "personal information" as defined in section 2(1) of the Act.
- B. If the answer to Issue A is yes, whether the Ministry properly denied the request for correction of personal information under section 47(2)(a) of the Act.

SUBMISSIONS/CONCLUSIONS:

ISSUE A: Whether the information in respect of which a correction request has been made qualifies as the appellant's "personal information" as defined in section 2(1) of the Act.

"Personal information" is defined in section 2(1) of the Act, in part, to mean:

... recorded information about an identifiable individual, including, information relating to the ... employment history of the individual ...

I have reviewed the information which the appellant wishes to have corrected and find that it satisfies the definition of personal information, as it relates to the appellant's employment history.

ISSUE B: If the answer to Issue A is yes, whether the Ministry properly denied the request for correction of personal information under section 47(2)(a) of the Act.

Section 47(2) of the Act states that:

Every individual who is given access under subsection (1) to personal information is entitled to,

- (a) request correction of the personal information where the individual believes there is an error or omission;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

In Order 186, Commissioner Tom Wright set out three requirements which must be met in order for an institution to grant a request for the correction of personal information:

1. the information at issue must be personal and private information;
and

2. the information must be inexact, incomplete or ambiguous; **and**
3. the correction cannot be a substitution of opinion.

I have determined under Issue A that the information in question contains the appellant's personal information and, further, is private in nature. Therefore, the first requirement of the test has been met.

With respect to the second requirement, as noted above, the individual who prepared the information at issue is himself unsure of the accuracy of his statement, as demonstrated when he begins the sentence by saying, "If my memory serves me correctly ...".

To support the proposition that the statement in question is inexact, the appellant has provided the Commissioner's office with a memorandum from the Manager of the Ministry's Accommodation Section to the Coordinator of Acquisition/Consulting Services. This memorandum, entitled "RE: Telecommunications Systems Acquisition", is dated June 19, 1989, and identifies the appellant as the Ministry's Telecommunications Representative assigned to the task described in the memorandum. This is the earliest document provided by the appellant which would satisfy me as to a specific date on which the appellant commenced work as a Telecommunications Officer. The appellant makes reference to other evidence in her representations to support her contention that the starting date of her developmental assignment was sometime in early 1989. This evidence, however, is either illegible or inconclusive, and does not pinpoint the appellant's exact starting date.

Based on the lack of certainty expressed by the individual who provided the information at issue and the documentary evidence provided by the appellant, I am satisfied that the information sought to be corrected is factually incorrect. I find, therefore, that the second requirement of the test has been satisfied.

I will now consider the third part of the test. In its representations, the Ministry submits that the information at issue is not factual but opinion and evaluative information since the statement contained in the record in question is expressed in terms of recollection. The Ministry states that it fully supports the position that where errors in factual information are shown to exist in the record, the institution in question should correct the information.

Having reviewed the record, it is my view that, although the author of the statement may be expressing some doubt as to the accuracy of the information he is providing, he is nevertheless providing factual information as opposed to an opinion. On this basis, the third requirement of the test has been met.

Having concluded that the information at issue is inaccurate, I must now determine how this information should be corrected. From a practical sense, this means fixing the date on which the appellant began her developmental secondment. Based on my review of the evidence, I cannot state with certainty that the appellant commenced her position in early 1989 as she contends. I am prepared to find, however, that she began her Developmental Secondment as a Telecommunications Officer with the Accommodations section of the Ministry no later than June 19, 1989. The inter-office memorandum dated July 12, 1993 which is the subject of this appeal should, therefore, reflect this finding.

ORDER:

1. In my view, the circumstances associated with this appeal are such that it would be inappropriate to order the Ministry to actually change the inter-office memorandum dated July 12, 1993 which is the subject record in this appeal. Therefore, I order the Ministry to attach to the record a memorandum containing the following information:
 - (i) That the appellant began her Developmental Secondment as a Telecommunications Officer with the Ministry's Accommodation Section not later than June 19, 1989;
 - (ii) A statement to the effect that the memorandum to be attached to the record forms an integral part of the record and should not be removed;
 - (iii) A statement to the effect that the memorandum reflects a correction ordered by the Information and Privacy Commissioner/Ontario.

2. I order the Ministry to make the correction in the manner specified in Provision 1 within twenty (20) days of the date of this order, and to notify the appellant and, **only** on my request, the Commissioner's office, within five (5) days of the date the correction is made.

3. I order the Ministry to give written notice to any person or body to whom the record has been disclosed since the correction was requested, of the correction that has been ordered, within five (5) days of the date the correction is made.

Original signed by: _____
Donald Hale
Inquiry Officer

_____ May 10, 1994