



Information and Privacy
Commissioner/Ontario

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

ORDER P-950

Appeal P-9500055

Ministry of Transportation



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NATURE OF THE APPEAL:

The Ministry of Transportation (the Ministry) received a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to a copy of the notice or warning as well as any other records which resulted in the downgrading of the requester's drivers licence from Class "A" to Class "D". The Ministry responded by informing the requester that no records responsive to his request exist. The requester appealed the Ministry's decision.

A Notice of Inquiry was provided to the appellant and the Ministry. Representations were received from the Ministry only. The sole issue to be determined in this appeal is whether the Ministry's search for records responsive to the request was reasonable.

DISCUSSION:

REASONABLENESS OF SEARCH

In Order M-553, Inquiry Officer Laurel Cropley outlined the approach taken by the Commissioner's office in appeals where the issue of the adequacy of search is to be addressed. Inquiry Officer Cropley acknowledged that both the appellant and the institution bear some responsibility in assisting this office to determine whether the search undertaken was reasonable. She held that:

In approaching reasonableness of search issues in appeals, the Commissioner's office has recognized that an appellant is rarely in a position to **know** that records do, in fact, exist. An appellant is, therefore, asked to provide his or her reasons for believing that a record should exist. At the same time, the institution is asked to provide details of the search which it has conducted. Previous orders have described the standard of review that will be conducted by this office, generally, as follows:

Where a requester provides sufficient details about the records which he or she is seeking and the Police indicate that additional records do not exist, it is my responsibility to ensure that the Police have made a reasonable search to identify responsive records. While the Act does not require that the Police prove to the degree of absolute certainty that such records do not exist, the search which the Police undertake must be conducted by knowledgeable staff in locations where the records in question might reasonably be located.

Upon consideration of the information provided by the parties, a conclusion will be made as to whether or not the search was reasonable in the circumstances of the appeal. The appellant maintains that records relating to the downgrading of his license status should exist. He has not, however, provided any information with respect to why he believes that further records should exist.

The Ministry has described in detail the process whereby an individual's license status may be downgraded. Holders of Class "A" licenses are required to submit a completed medical form every three years to the Ministry. A warning contained at the top of the medical form states that failure to file the required form will result in the license being downgraded to Class "D" status. The Ministry submits that this is precisely what happened in 1981 when the appellant failed to submit the required medical form. It further argues that no other notices or warnings of the downgrading of his license would have been provided to the appellant and, accordingly, no such records exist. It also points out that the appellant renewed his Class "D" license in 1986, 1989 and 1992.

In the circumstances of this appeal, I am satisfied that the Ministry has taken all reasonable steps to locate records which are responsive to the request.

ORDER:

I uphold the Ministry's decision.

Original signed by: _____
Hale
Inquiry Officer

July 06, 1995 _____ Donald