



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER P-960**

## **Appeal P-9500058**

### **Ministry of Community and Social Services**



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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 Ministry of Community and Social Services (the Ministry) received a request under the Act for a copy of the requester's "complete original file" from the Family Benefits division. The Ministry located a number of responsive records and provided copies of all of them to the requester. The Ministry subsequently realized that there existed an investigation file related to the requester. The Ministry issued a supplementary decision letter denying access to the contents of this file under section 14(1) of the Act, law enforcement.

The requester appealed the Ministry's decision.

During mediation, the appellant agreed not to pursue access to the records contained in the investigation file. The appellant took the position, however, that additional records responsive to her request should exist.

A Notice of Inquiry was sent to the Ministry and the appellant. Representations were received from both parties. The sole issue in this appeal is whether the Ministry's search for records responsive to the appellant's request was reasonable in the circumstances of the appeal.

## DISCUSSION:

### REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records to which she is seeking access and the Ministry indicates that additional records do not exist, it is my responsibility to ensure that the Ministry has made a reasonable search to identify responsive records. In my view, the Act does not require that the Ministry prove to the degree of absolute certainty that further records do not exist. However, in my view, in order to properly discharge its obligations under the Act, the Ministry must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

The appellant submits that the Ministry should have in its possession further records with respect to her employment. Specifically, the appellant is looking for copies of pay cheque stubs which she claims she forwarded to the Ministry. The appellant also believes that additional records should exist detailing the calculation of her welfare entitlement.

The appellant submits that during the processing of this appeal, the Ministry continued to locate additional records responsive to her request. It appears that the appellant is taking the position that this is a relevant consideration when evaluating the adequacy of the Ministry's search.

The Ministry has provided an affidavit sworn by the Area Manager outlining the steps which were taken to locate records responsive to the appellant's request. The affidavit indicates that a search was conducted by the Income Maintenance Supervisor in conjunction with the Freedom of Information and Protection of Privacy Representative. The search described encompassed the file room, as well as the files of the worker

assigned to the appellant's case. All responsive records which were located during this search were forwarded to the appellant.

The affidavit goes on to indicate that a further search was conducted by the Income Maintenance Supervisor for a file compiled by the Eligibility Review Officer responsible for the appellant's case. It was determined that the file in question was passed to the Metropolitan Toronto Police for a fraud investigation. As I indicated earlier in this order, the appellant is not pursuing access to this file. The affidavit confirms that no additional responsive records were located.

The affidavit does affirm that various records were forwarded to the appellant during the processing of the appeal. However, the Ministry submits that these were duplicate copies of records which had been previously provided to the appellant in response to her initial request.

I can understand the appellant's position with regard to the pay cheque stubs. The Ministry initially stated that these had been turned over to the police as part of the investigation file. It next asserted that the cheques had been retained in the custody of the Ministry but had been destroyed. Finally, the Ministry has taken the position that there is no indication that the Ministry ever received the pay cheque stubs from the appellant.

Nonetheless, having carefully reviewed the affidavit and the representations of both parties, I am satisfied that the Ministry has taken all reasonable steps to locate the records which would be responsive to the appellant's request. Accordingly, I find that the search was reasonable in the circumstances of this appeal.

**ORDER:**

I uphold the Ministry's decision.

Original signed by: \_\_\_\_\_  
Anita Fineberg  
Inquiry Officer

\_\_\_\_\_ July 24, 1995