



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

ORDER P-1220

Appeal P-9600156

Criminal Injuries Compensation Board



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NATURE OF THE APPEAL:

The appellant made an application for compensation to the Criminal Injuries Compensation Board (the Board). Her application was heard by a board panel which conducted a hearing and made an order for compensation. The appellant was given to understand by the Board that a delay in the production of the decision was caused by the routing of the decision to the Chair's office and its return to the panel members for amendment.

The appellant has made a request under the Freedom of Information and Protection of Privacy Act (the Act) for access to copies of all records related to the referral of the Order of Compensation to the Chair of the Board or his delegate, and the return of that Order to the panel members who heard the case for change or amendment.

The Board advised the appellant that access could not be granted as the records do not exist. The appellant appealed the Board's decision claiming that further records should exist.

A Notice of Inquiry was provided to the Board and to the appellant. Subsequently, the Board located two records which it identified as responsive to the request and disclosed them to the appellant. Representations were received from both parties. The sole issue to be determined in this appeal is whether the Board's search for records responsive to the appellant's request was reasonable in the circumstances.

DISCUSSION:

REASONABLENESS OF SEARCH

Where a requester provides sufficient details about the records which he or she is seeking and the Board indicates that such a record does not exist, it is my responsibility to ensure that the Board has made a reasonable search to identify any records which are responsive to the request. The Act does not require the Board to prove with absolute certainty that the requested record does not exist. However, in my view, in order to properly discharge its obligations under the Act, the Board must provide me with sufficient evidence to show that it has made a reasonable effort to identify and locate records responsive to the request.

During the inquiry stage of this appeal, the Board located and disclosed a two-page Work Sheet and a three page "draft" Board Order. The Board explained that the draft order was not disclosed in response to the request as it was assumed that the document was a duplicate of the final order which had been previously provided to the appellant. The Board realized during the inquiry that the documents were not duplicates as the quantum of the compensation award was different, and disclosed the draft to the appellant.

The Board has submitted the sworn affidavit of one of the Board employees who conducted the search to locate responsive records. The affidavit indicates that all records responsive to the request have been provided to the appellant, and summarizes the searches conducted by the employee and two other Board employees. It also indicates that the process of consultation between Board Members and the Chair may be oral or written, and that the employee has no knowledge of the destruction of any records which may have been responsive to the request.

The appellant's submissions raise a number of questions about the Board's internal procedures. While I understand the appellant's concerns in this regard, these issues are beyond the scope of this appeal.

I have considered the representations of the parties and I find that the Board's search for records responsive to the appellant's request was reasonable in the circumstances of this appeal.

ORDER:

I uphold the Board's decision.

Original signed by: _____

Holly Big Canoe
Inquiry Officer

July 4, 1996