



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

ORDER P-1604

Appeal P_9800089

Ministry of Community & Social Services



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NATURE OF THE APPEAL:

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 a copy of the requester's entire family benefits file. The Ministry located the responsive records and disclosed them to the requester. The requester contacted the Ministry and indicated his belief that some pay stubs and notes to file should also exist. The Ministry responded by stating that it had granted full access to all the records existing in the file. The requester appealed on the basis that additional records should exist.

During mediation, the requester, now the appellant, indicated that he had located the missing pay stubs and was no longer interested in pursuing that aspect of his request. However, he continued to believe that notes to file, for a particular three month period, should exist. The sole issue on appeal is whether the Ministry's search for notes to file was reasonable in the circumstances of this appeal.

This office provided a Notice of Inquiry to the appellant and the Ministry. Representations were received from the Ministry only.

DISCUSSION:

REASONABLENESS OF SEARCH

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

Although an appellant will rarely be in a position to identify precisely which records have not been identified in an institution's response to a request, the appellant must, nevertheless, provide me with a reasonable basis for concluding that such records may, in fact, exist.

The Ministry submits that all responsive records have been disclosed to the appellant and that no additional records exist. The Ministry states that during the processing of the request and upon receipt of the responsive records, the appellant contacted the Ministry and was provided assistance with his various questions. In his request, the appellant had indicated that he required the information in order to prepare for an upcoming hearing before the Social Assistance Review Board. The Ministry responded accordingly by processing the request, waiving the fee and providing the 364 page record to him within a total processing time of 16 days. The Ministry states that no additional records were located, nor, do they exist.

The Ministry states that in response to the appeal, another search was conducted in the Corporate file, the Parental Support Unit, the Earnings Unit and the file room for the notes to file that the appellant claims should exist. The Ministry states that no additional records were located. In support of the Ministry's position, it has provided two declarations from the employees who conducted the additional searches, attesting to the areas searched and that no additional records were located. The Ministry has also provided me with a declaration from the appellant's social worker that all records were put on file and have since been disclosed to the appellant.

I have carefully reviewed the evidence before me together with all the circumstances of this appeal. In my view, the Ministry has provided me with sufficient evidence to demonstrate that the searches it conducted for additional records was reasonable in the circumstances of this appeal.

ORDER:

I dismiss this appeal.

Original signed by: _____
Mumtaz Jiwan
Adjudicator

August 20, 1998