



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

ORDER PO-1684

Appeal PA-990085-1

Ministry of Health



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NATURE OF THE APPEAL:

This is an appeal under the Freedom of Information and Protection of Privacy Act (the Act). On November 6, 1998, the Ministry of Health (the Ministry) received a request for access to information about the audit regarding management practices of the Windsor Care Access Centre.

On November 23, 1998, the Ministry sent a letter to the requester, acknowledging receipt of the request. The requester clarified the request and on January 12, 1999, the Ministry confirmed that the record sought was a copy of the final audit regarding management practices of the Windsor Community Care Access Centre. The Ministry also indicated that it anticipated that a decision on access would be forthcoming by the end of February

The Ministry did not issue a decision letter to the requester as required by sections 26 and 29 of the Act within the 30 days prescribed by the Act. However, the Ministry had indicated to the requester that a decision would be provided by February 28, 1999 and the requester had accepted this arrangement, even though this was more than three months after the date of the request. The Ministry did not issue a decision by February 28, 1999 and accordingly, the Ministry placed itself in a "deemed refusal" situation pursuant to section 29(4) of the Act. The requester, now the appellant, appealed the Ministry's deemed refusal to provide access to the records.

On March 26, 1999, I contacted the Ministry and informed it that this office had received a "deemed refusal" appeal. I commenced mediation with the parties. Simultaneously, this office prepared a Notice of Inquiry to be sent to each of the parties. The Notice stated that the Ministry was in a "deemed refusal" situation because a decision letter had not been issued to the appellant within the time period set out in section 26 of the Act. The Notice also indicated that I would attempt to settle the appeal but if a settlement was not reached by April 13, 1999, I would be in a position to issue an order requiring the Ministry to issue a decision letter to the appellant. Inadvertently, the Notice dated March 26, 1999 was not sent out until May 28, 1999. Notwithstanding this oversight, attempts to settle the appeal were made with both parties.

During mediation, the Ministry advised that it had now reviewed the record and that it contained information which may affect the interests of third parties. Consequently, the third parties were notified under section 28 of the Act and this office and the appellant were informed that a final decision on access would be provided by May 21, 1999.

On May 18, 1999, the Ministry wrote to the appellant and stated that during the initial third party notification process, it realized that there were other individuals who also had to be notified. As a result, the date for the Ministry's final decision on access was extended to June 17, 1999, as required by section 28 of the Act. I note that the request was made on November 6, 1998 and third party notification was not commenced until April 21, 1999. Given the lengthy delays that have occurred in the processing of this request, and given that the Ministry has stated that it will be in a position to issue its decision on access on June 17, 1998, I am ordering the Ministry to issue a decision letter to the appellant no later than June 23, 1999.

ORDER:

1. I order the Ministry to provide the appellant with a decision on access to the records responsive to the request of November 6, 1998 by **June 23, 1999**, without recourse to a time extension.
2. In order to verify compliance with Provision 1 of this order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 by **June 23, 1999**. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 80 Bloor Street West, Suite 1700, Toronto, Ontario, M5S 2V1.

Original signed by: _____

Mumtaz Jiwan
Acting Adjudicator

_____ June 4, 1999