



**Information and Privacy
Commissioner/Ontario**

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

ORDER PO-2121

Appeal PA-020287-2

Assessment Review Board



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BACKGROUND:

This is an appeal under the *Freedom of Information and Protection of Privacy Act* (the *Act*).

On August 5, 2002, the requester submitted a request for correction of personal information under section 47(2) of the *Act* to the Chair of the Assessment Review Board (the Board). Pursuant to Regulation 460 under the *Act*, the designated head of the Board is the Ministry of the Attorney General (the Ministry).

Section 26 of the *Act* requires the Board to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Board is in a “deemed refusal” situation pursuant to subsection 29(4) of the *Act*. That provision states:

A head who fails to give the notice required under section 26 or subsection 28(7) concerning a record shall be deemed to have given notice of refusal to give access to the record on the last day of the period during which notice should have been given.

On September 9, 2002, the requester (now the appellant) appealed the Board’s deemed refusal and this office opened Appeal PA-020287-1.

During the course of Appeal PA-020287-1, it was determined that the Board did not send a copy of the request to the head, the Ministry and, therefore, the request was not processed under the *Act*. The appellant agreed to send his request directly to the Ministry’s Freedom of Information Co-ordinator (FOI Co-ordinator), and this office closed Appeal PA-020287-1 on this basis.

NATURE OF THE APPEAL:

On February 3, 2003, the appellant wrote to this office indicating once again that he had not received a response to his correction request.

DISCUSSION:

The appellant submits that he had forwarded directly to the Co-ordinator an exact copy of the original request dated August 5, 2002 and addressed to the Chair of the Board. However, the appellant states that he did not include a covering letter indicating that he was making a new correction request, nor did he include the mandatory \$5.00 request fee. The Co-ordinator submits that she did not receive a copy of the original request from the appellant, nor a new request, nor a request fee.

In the circumstances, I am not persuaded that the appellant has submitted a formal request under the *Act* to the Co-ordinator, as he had agreed to do in Appeal PA-020287-1. Accordingly, the Board is not in a “deemed refusal” situation and I decline to order the Co-ordinator to issue a decision to the appellant on the Board’s behalf.

Should the appellant wish to pursue his correction request he is advised to make a written request under the *Act* addressed to the Co-ordinator, accompanied by the \$5.00 request fee.

ORDER:

The appeal is dismissed.

Original signed by: _____

Catherine Corban
Acting-Adjudicator

February 28, 2003 _____