



**Information and Privacy
Commissioner/Ontario**

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

INTERIM ORDER PO-2457-I

Appeal PA-050216-1

Ministry of Children and Youth 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*). On June 6, 2005 the requester submitted a request to the Ministry of Children and Youth Services (the Ministry) under the *Act* for access to the following information:

1. The licensing Module database for all licensed childcare programs, part of the Ministry's System Management Information System.
2. The Special Occurrence Reporting System database.
3. Copies of all complaints against Ontario daycare facilities between January, 2000 and present.

In its decision letter dated July 18, 2005, the Ministry responded to the third part of the request with an interim access decision and fee estimate. The Ministry also requested a deposit. The Ministry did not respond to parts 1 and 2 of the request.

The requester (now the appellant) appealed the Ministry's decision. During mediation, the mediator asked the Ministry to respond, in writing, to the first two parts of the appellant's request. At the conclusion of mediation, neither the appellant nor this office had received any correspondence responding to parts numbered one and two above.

No further mediation was possible and this matter proceeded to adjudication. I have issued a Notice of Inquiry to the Ministry concerning the issues of the fee estimate and the request for a fee waiver. I will continue to adjudicate that part of the appeal. This order concerns parts 1 and 2 of the request, to which the Ministry has not responded.

DISCUSSION:

DEEMED REFUSAL

Section 29(4) of the *Act* 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.

I wrote to the Ministry on February 3, 2006 and stated:

As regards parts one and two of the request, I note that the Ministry is in a position of "deemed refusal" by not issuing a decision letter to the requester (now the appellant) within the time period set out in section 26 of the *Act*.

...

The Ministry should immediately issue a decision letter to the appellant if it has not already done so, and forward a copy to my attention. In the event that I do not

receive a copy of this decision letter by Friday, February 10, 2006, I will issue an order requiring one to be issued.

To date, I have not received a decision letter from the Ministry regarding parts 1 and 2 of the request. To ensure that there are no further delays in processing this request on the appellant's behalf, I am ordering the Ministry to issue a decision letter regarding access to these records.

ORDER:

1. I order the Ministry to issue a final decision letter to the appellant regarding parts 1 and 2 of the request, in accordance with the *Act* and without recourse to a time extension, no later than **March 13, 2006**.
2. In order to verify compliance with this provision of this order, I order the Ministry to provide me with a copy of the decision letter referred to in Provision 1 when it is sent to the appellant. This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Toronto, Ontario M4W 1A8.

Original signed by: _____
John Higgins
Senior Adjudicator

March 6, 2006