



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

ORDER PO-2953

Appeal PA11-27

Ministry of Health and Long-Term Care



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NATURE OF THE APPEAL:

On February 22, 2010, the requester, under the *Freedom of Information and Protection of Privacy Act* (the *Act*), made a request to the Ministry of Health and Long-Term Care (the Ministry) for access to records relating to updated summary lists from April 25, 2008 to the request date, that would include:

- a signed Bill 102 agreements tracking sheet;
- a summary of current listing agreements;
- a conditional listing deliverables sheet;
- conditional listing summaries; and
- 2009 and 2010 impact lines or briefing notes on these summary listing sheets to date.

The requester stipulated that his current request should be “interpreted broadly to include the total lists.”

On February 25, 2010, the Ministry responded advising the appellant that due to the large volume of records that must be searched in order to complete the processing of the request, the time period for which the Ministry would be providing its access decision has been extended by 60 days to May 25, 2010. The Ministry’s file reference for the appellant’s request was A-2010-00013/db.

On January 24, 2011, the IPC received a letter from the requester, now the appellant, dated December 24, 2010 indicating that the Ministry has not yet issued a final access decision with respect to request A-2010-00013/db.

On January 31, 2011, the Assistant Registrar spoke with the Ministry and confirmed that no access decision had been issued. Appeal file PA11-27 was opened and a Notice of Inquiry was sent to the Ministry, and the appellant, that stated the Ministry is in a deemed refusal position. The Notice indicated that if a final decision was not issued by February 16, 2011, I would be in a position to issue an order requiring the Ministry to provide its decision to the appellant.

After several contacts with the Ministry, I have not been advised when the Ministry will issue its final access decision.

DISCUSSION:

The matter before me is whether the Ministry is in a deemed refusal position pursuant to section 29(4) of the *Act* with respect to the appellant’s request.

Section 26 of the *Act* requires the Ministry to issue a decision within 30 days of receipt of a request. If a decision is not issued within that time period, the Ministry is in a “deemed refusal” position 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.

In my view, the Ministry was required to issue a decision regarding access to the records on or before May 25, 2010. To date, the Ministry has failed to issue a final access decision. Therefore, I find that the Ministry is in a deemed refusal position pursuant to section 29(4) of the *Act*. To ensure that there are no further delays I will order the Ministry to issue its final access decision to the appellant, without recourse to any further time extensions.

ORDER:

1. I order the Ministry to issue a **final** access decision to the appellant regarding access to the requested records in this appeal in accordance with the *Act* and without recourse to a further time extension, **no later than February 28, 2011.**
2. In order to verify compliance with provision 1 in this order, I order the Ministry to provide me with a copy of the decision letter referred to in provision 1 **by February 28, 2011.** This should be forwarded to my attention, c/o Information and Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto, Ontario, M4W 1A8

Original signed by: _____
Joseph Sommer
Analyst

February 18, 2011 _____