



**Information and Privacy  
Commissioner/Ontario**

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

# **ORDER 75**

**Appeal 890032**

**Workers' Compensation Board**



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July 14, 1989

VIA PRIORITY POST

Appellant

Dear Appellant:

**Re: Order 75**  
**Workers' Compensation Board**  
**Appeal Number 890032**

I am writing to you about your appeal of the decision of the Workers' Compensation Board (the "institution") regarding your request for information under the Freedom of Information and Protection of Privacy Act, 1987.

On June 11, 1988 you wrote to the institution asking for the following information:

In a letter..., Dr. Elgie advised my husband that the Health Disciplines Board had provided Mr. Carter, one of the WCB's solicitors, with information indicating that I had accused a [Dr. X] of sexual molestation.

Under the provisions of the Freedom of Information Act, I am writing to request a copy of any record (including Mr. Carter's notes) of this communication between Mr. Carter and the Health Disciplines Board. I also request a copy of any record of any communication between

Mr. Carter and Dr. Elgie's Office, referring to the information Mr. Carter received from the Health Disciplines Board.

On receipt of your request the institution's Freedom of Information and Privacy Co\_ordinator (the "Co\_ordinator") arranged for a search of Board Solicitor's records. On July 7, 1988, the Co\_ordinator responded to your request by stating that:

Mr. Jim Carter, Board Solicitor, informs me that he does not now, nor has he ever had any records or documents pertaining to the telephone call by which he was informed that complaints had been lodged with the Health's (sic) Disciplines Board by you. Access cannot therefore be provided because the record does not exist.

I am granting access to all documents in our file pertaining to the second branch of your request; copies of records pertaining to the communication between Mr. Carter and Dr. Elgie's office referring to the information.

Documents were enclosed and sent to you with this letter.

On August 30, 1988 you sent a further request to the Co\_ordinator:

In response to a complaint against [Dr. Y], Mr. J. Carter, a WCB solicitor, made a number of false allegations, among which were the following:

- 1) that I had accused [Dr. X] of improper treatment
- 2) that I had accused [an identified doctor] of improper treatment
- 3) that I had accused [Dr. Z] of improper treatment
- 4) that I had left several jobs out of fear of being sexually molested

As provided for by the Freedom of Information Act, I request a copy of the information on which Mr. Carter based his allegations. I also request a copy of all documents (notes, memos, correspondence, etc.) which refer to the above information and/or Mr. Carter's subsequent allegations.

And on September 2, 1988, you sent another letter to the Co\_ordinator in which you stated, among other things, that:

Unfortunately, you sent the wrong information. Only one of the ten documents refers to Mr. Carter's false allegations about sexual molestation. The remaining nine concern some of the numerous other false allegations made by Mr. Carter.

Among the missing documents is Mr. Carter's communication advising Dr. Elgie's office that the allegation about sexual molestation was based on information provided by the offices of the Health Disciplines Board. Would you kindly send me a copy of this communication.

On receipt of your September 2, 1988 letter, the Co\_ordinator again contacted Mr. Carter and asked him to provide confirmation that no further records were in his custody.

After receiving a memo from Mr. Carter, the Co\_ordinator wrote you on September 26, 1988, reiterating that copies of all material in the possession of the Board Solicitor had been sent to you on July 7, 1988, and attaching a copy of Mr. Carter's memo. The Co\_ordinator also advised you of your right to appeal her decision to the Information and Privacy Commissioner.

On October 13, 1988, you wrote to my office asking for assistance in obtaining documents relating to the following:

- 1) a copy of the communication by which Mr. Carter informed Dr. Elgie's office that the misinformation had been provided by the offices of the Health Disciplines Board, and
- 2) confirmation that in obtaining the above misinformation during a telephone conversation with Ms Hastings [of the Health Disciplines Board], Mr. Carter did not make any notes regarding the date of the call, the name of the person he spoke with, or the substance of the conversation.

By letter dated November 3, 1988, you made further inquiries to the Workers' Compensation Board about the records pertaining to your request, apparently because you were not satisfied with the Board Solicitor's response.

In response to your letter, the Co\_ordinator wrote to you on December 2, 1988 as follows:

To ensure that you have a complete copy of all correspondence between Mr. Carter and Dr. Elgie's office, I am sending you a complete copy of the file held in Dr. Elgie's office pertaining to yourself.

Since that time there has been ongoing correspondence between you and the Workers' Compensation Board regarding the same subject matter.

In response to your October 13, 1988 letter, my Manager of Compliance Investigations conducted an independent review to determine whether or not the Workers' Compensation Board had adequately met the requirements of the Act in attempting to locate the requested records and advising you of the results of its search.

After completing his investigation, the Manager of Compliance Investigations wrote to you on April 27, 1989, as follows:

- 1) Ms Braun [the then Co\_ordinator] responded to your request. On July 7, 1988 indicating that no such memo exists, and therefore access could not be provided. As noted above, her response was based on the fact that, after a search of Mr. Carter's records, no such memo could be found.
- 2) Ms Braun informed you in her letter of July 7, 1988 that Mr. Carter had advised her that he did not ever have any records or documents pertaining to the telephone call by which he was informed that complaints had been lodged with the Health's (sic) Disciplines Board. Subsequent to that letter, you received copies of all documents from your file which were in Dr. Elgie's office. Included in these documents was a copy of a note written by Mr. Carter about a telephone call he had with Louise Hastings.

The Manager also confirmed that you had received all documents that exist in these files.

As a further step, the Manager contacted the Health Disciplines Board and received assurances that a search of its files had been undertaken and no record of correspondence between Mr. Carter and Ms Hastings could be located. Ms Hastings also confirmed that she had no recollection of any such correspondence.

In the Manager's April 27, 1989 report, you were advised that, if you were not satisfied with the results of his investigation, your appeal would be resolved by an Order of the Commissioner. You were given an opportunity to make any further representations, and you did so by letters received in my office on May 11, 1989 and May 24, 1989.

I have taken into account the contents of the report prepared by my Manager of Compliance Investigations and representations received from you in reaching my decision in this Order.

In the circumstances of this appeal, I am satisfied that you have in fact received all records in the custody or under the control of the Workers' Compensation Board which pertain to your requests of June 11, 1988, August 30, 1988 and September 2, 1988.

I can appreciate that you may be disappointed that information you thought was held by the institution does not exist in recorded form. However, I hope you are able to take some

satisfaction in knowing that a thorough, independent review of all relevant records was undertaken by my office before concluding that no records were being withheld from disclosure.

Yours truly,

Sidney B. Linden  
Commissioner

cc: Dr. Robert Elgie, Chairman, Workers' Compensation Board  
Ms Luisa Giacometti, FOI Co\_ordinator