

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

---

## ORDER PO-4445

Appeal PA22-00227

Landlord and Tenant Board

October 05, 2023

**Summary:** The sole issue in this appeal is whether the Landlord and Tenant Board (the board) conducted a reasonable search for records responsive to two parts of the appellant's multi-part request under the *Act*. In this order, the adjudicator finds that the board conducted a reasonable search and dismisses the appeal.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, R.S.O 1990, c. F.31, as amended, section 24.

### OVERVIEW:

[1] The Landlord and Tenant Board (the board) received a four-part request under the *Freedom of Information and Protection of Privacy Act* (the *Act*). Parts 1 and 4 of the request remain at issue:

1. A complete **organizational chart** of the Landlord and Tenant Board, including a list of employees and their titles. If it is not possible to produce a diagram, a copy of the employee directory in the form of a spreadsheet or similar document matches the spirit of the request. I mean this request to include staff names, titles and office contact information, along with their reporting relationships.

4. **Microsoft Teams messages** sent between [named employee] and her immediate superior between January 17th, 2022 and March 18th, 2022 (inclusive). I mean this request to include messages sent and received,

along with images and files shared over the Microsoft Teams platform between these two individuals during the specified period.

[emphasis in the original]

[2] The board issued a decision to the requester. With respect to part 1 of the request, the board granted partial access to an organizational chart, withholding some information under section 65(6)3 of the *Act*.

[3] With respect to part 4 of the request, the board provided partial access to the responsive Teams messages, denying access to a receipt number associated with a board file. The board also advised the following:

Note that your request was processed as soon as reasonably possible. [Named staff] were asked to search for their Teams messages on April 12, 2022 and conducted their search that same day. Teams messages are automatically deleted after 28 days as per the government's retention policy. Accordingly, [the named staff] were able to provide messages going back to March 14, 2022.

[4] The requester, now the appellant, appealed the board's decision to the Information and Privacy Commissioner of Ontario (IPC).

[5] During mediation, the appellant advised that he believes there exists additional records responsive to his request. For instance, for part 1 of the request, the appellant advised that the organizational chart was missing employees and contact information for staff. The appellant explained that the board could provide the information he sought through an Excel list exported from Microsoft Active Directory. To assist the board, the appellant provided instructions on how to export from the Active Directory.

[6] With respect to part 4 of the request, the appellant advised that he believes the board should be able to retrieve the Teams messages that were deleted.

[7] The board conducted an additional search, located additional responsive records and issued a supplementary decision. With respect to part 1 of the request, the board provided full access to screenshots of Microsoft Outlook address books related to the board, a list of email addresses and information about reporting relationships. With respect to part 4 of the request, the board confirmed that Teams messages exchanged prior to March 14, 2022 cannot be recovered.

[8] After receiving the supplementary decision, the appellant advised that he continues to take issue with the board's search and believes that records responsive to parts 1 and 4 of his request exist.

[9] As a mediated resolution was not possible, the appeal was transferred to the adjudication stage of the appeal process.

[10] I conducted an inquiry under the *Act*. Based on my review of the disclosure

provided to the appellant, and the board's decisions, I began the inquiry by inviting the appellant's representations.

[11] The appellant submitted representations, which were provided to the board. I then invited representations from the board, who submitted representations and an affidavit in response. I did not find it necessary to share the board's representations and affidavit with the appellant in order to make my findings. The affidavit reiterated information provided previously and there was no need to get the appellant's further response.

[12] In this order, I find that the board conducted a reasonable search with respect to parts 1 and 4 of the appellant's request, and dismiss the appeal.

## **DISCUSSION:**

[13] The sole issue to be determined is whether the board conducted a reasonable search for records responsive to parts 1 and 4 of the appellant's request.

[14] If a requester claims that additional records exist beyond those found by the institution, the issue is whether the institution has conducted a reasonable search for records as required by section 24 of the *Act*.<sup>1</sup> If the IPC is satisfied that the search carried out was reasonable in the circumstances, it will uphold the institution's decision. Otherwise, it may order the institution to conduct another search for records.

[15] Although a requester will rarely be in a position to indicate precisely which records the institution has not identified, they still must provide a reasonable basis for concluding that such records exist.<sup>2</sup>

[16] The *Act* does not require the institution to prove with certainty that further records do not exist. However, the institution must provide enough evidence to show that it has made a reasonable effort to identify and locate responsive records;<sup>3</sup> that is, records that are "reasonably related" to the request.<sup>4</sup>

[17] A reasonable search is one in which an experienced employee knowledgeable in the subject matter of the request makes a reasonable effort to locate records that are reasonably related to the request.<sup>5</sup> The IPC will order a further search if the institution does not provide enough evidence to show that it has made a reasonable effort to identify and locate all of the responsive records within its custody or control.<sup>6</sup>

---

<sup>1</sup> Orders P-85, P-221 and PO-1954-I.

<sup>2</sup> Order MO-2246.

<sup>3</sup> Orders P-624 and PO-2559.

<sup>4</sup> Order PO-2554.

<sup>5</sup> Orders M-909, PO-2469 and PO-2592.

<sup>6</sup> Order MO-2185.

## **Representations, analysis and findings**

### ***Part 1 of the request***

[18] The appellant submits that the board did not conduct a reasonable search because “there is no indication that [the board] took [his] very specific request to the appropriate . . . staff.” He believes that the board uses Microsoft’s Azure Active Directory solution, as the Teams and Outlook records previously shared “require this Microsoft directory solution to be centrally administered.” He is certain that the records he seeks exist as they are necessary for the production of the records the board already disclosed. According to the appellant, the board chose not to provide these records, even after he clarified this as an acceptable solution. He acknowledges that the board did provide him with screenshots of Outlook groups but he submits that it did not provide the information he originally requested and did not include the entire board staff.

[19] The board takes the position that it provided the appellant with the information requested. The board explains that it provided screenshots of every Microsoft Outlook address book associated with the board, which collectively included the names and titles of all board staff and adjudicators. It adds that it provided the email addresses for each individual in the address book as well as information demonstrating the reporting relationships for board staff and adjudicators.

[20] The appellant’s argument, as I understand it, is that the board is able to produce the information he seeks through the use a specified Microsoft solution. The board submits that they tried to implement the technical approach the appellant suggested at mediation, but that they were unsuccessful and provided the information in a different manner, as set out above.

[21] Based on my review of the request, the board’s decisions and the disclosure it provided to the appellant at the request stage and after its additional search during mediation, I am satisfied that the board understood and searched for what the appellant requested, and provided him with the responsive information it located. I have reviewed the board’s disclosure, which includes screenshots of lists of staff for different Outlook address groups, partial access to an organizational chart, a list of email addresses and information relating to reporting relationships at the board. Based on my review, the foregoing contain the requested staff names, titles, contact information, and reporting relationships.

[22] In light of the above, I find that the board conducted a reasonable search for records responsive to part 1 of the request. I am satisfied that an experienced employee knowledgeable in the subject matter handled the request. In this case, the employee in question is experienced in coordinating access to records requests related to the board and other tribunals.<sup>7</sup> I am also satisfied that reasonable efforts were made to locate records responsive to the request. As described above, the board searched during both the request and mediation stages, and provided the appellant with responsive information

---

<sup>7</sup> The board’s affidavit.

further to these searches.

[23] Regarding the appellant's submission that the screenshots provided do not include the entire staff, the board indicates that there is a limit to the absolute accuracy of the staff information included in the address book as it requires constant updating to reflect staff turnover. It explains that when an address book is accessed at a particular point in time, it is possible that it has not yet been updated to include information related to a new hire. I accept as reasonable the board's explanation and note that the standard it is held to is reasonableness. I am not persuaded that further searches would yield the information sought.

***Part 4 of the request***

[24] As noted above, part 4 of the request is for Microsoft Teams messages between two board staff members, during a specified period of time. The requested period was January 17 to March 18, 2022 and the board provided messages going back to March 14, 2022.

[25] The appellant submits that he believes the board could have requested that its technology staff search the board's backups for the remaining Teams messages. He notes that Teams messages are subject to a retention policy, however, he submits that the board could have chosen to back up sensitive information to ensure it can be restored when needed.

[26] I also find that the board conducted a reasonable search with respect to part 4 of the request. As noted above, the employee tasked with handling this request is experienced in coordinating access to records requests related to the board and other tribunals. In its initial decision letter, the board explained how the messages that were shared with the appellant were gathered, and why the board did not share messages prior to March 14<sup>th</sup>, 2022. It explained that Teams messages are auto-deleted after 28 days, in accordance with the government's retention policy. It stated that the staff members in question were asked to search their Teams messages on April 12, 2022 and conducted their search the same day and as a result, messages going back to March 14<sup>th</sup>, 2022 were provided to the appellant. In its supplementary decision, the board confirmed the 28-day retention policy and that it cannot provide access to Teams messages exchanged prior to March 14, 2022. It further stated that "once deleted these messages cannot be recovered." The appellant raises the possibility that the Teams messages he seeks can be recovered. In my view, this is speculative, and I am not persuaded that further searches would yield additional responsive records, given the steps the board took, the disclosure it provided and its retention policy with respect to Teams messages.

[27] In light of my findings above, I conclude that the board has met its search obligations, as required under section 24 of the *Act*.

**ORDER:**

I uphold the reasonableness of the board's search for responsive records and dismiss the appeal.

Original Signed by: \_\_\_\_\_  
Hannah Wizman-Cartier  
Adjudicator

October 05, 2023 \_\_\_\_\_