

Information and Privacy Commissioner,
Ontario, Canada



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

ORDER PO-4609

Appeal PA24-00364

Tribunals Ontario

February 20, 2025

Summary: On March 14, 2023, an individual asked Tribunals Ontario (the tribunal) for records related to its training materials. They filed an appeal with the IPC because the tribunal did not issue an access decision within the prescribed time limit. The decision-maker agrees that the tribunal is deemed to have refused the access request under section 29(4) of the *Act* and orders the tribunal to issue a final access decision by March 19, 2025.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.3, as amended, sections 26 and 29.

BACKGROUND:

[1] On March 14, 2023, the appellant filed an access request to Tribunals Ontario (the tribunal) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for records related to its training materials, including correspondence about training its staff and tribunal processes.

[2] On June 24, 2024, the appellant filed an appeal with the Information and Privacy Commissioner of Ontario (IPC) when the tribunal failed to issue a decision within 30 days of the access request. File PA24-00364 was opened.

[3] On October 23, 2024, the tribunal advised the IPC that it needs a new tool that facilitates key word searches to address the request and that it would speak with a manager about the tool's approval.

[4] On November 4, 2024, the tribunal advised that it was still waiting for the approval of the tool.

[5] On November 15, 2024, I emailed the tribunal to inquire about issuing its decision in response to the access request.

[6] On November 20, 2024, the tribunal advised that it would like to address the request once it obtains the tool to facilitate key word searches.

[7] On November 21, 2024, I informed the tribunal that this appeal cannot wait for the approval and implementation of the tool and asked that a decision be issued by November 26, 2024. A decision was not issued by this date.

[8] On December 13, 2024, I decided to conduct an inquiry and issued a Notice of Expedited Inquiry, encouraging the tribunal to issue a final decision by January 10, 2025. A final decision was not issued by this date.

[9] On January 28, 2025, the tribunal advised that it would provide me with an update on its progress early in the week of February 10, 2025, and that it was targeting to issue an access decision for this request by February 14, 2025.

[10] On February 14, 2025, the tribunal advised that it has not issued its decision. Considering the above, and to ensure there are no further delays in processing this access request, I will order the tribunal to issue a final access decision to the appellant.

DISCUSSION:

[11] Section 26 of the *Act* states:

Where a person requests access to a record, the head of the institution to which the request is made or if a request is forwarded or transferred under section 25, the head of the institution to which it is forwarded or transferred, shall, subject to sections 27, 28 and 57, within thirty days after the request is received,

(a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and

(b) if access is to be given, give the person who made the request access to the record or part thereof, and where necessary for the purpose cause the record to be produced.

[12] The circumstances giving rise to a deemed refusal are set out in section 29(4) of the *Act*. This section states:

A head who fails to give 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.

[13] If a time extension is not issued, it is expected that, prior to the expiry of the 30-day time limit in section 26 of the *Act*, written notice will be given to the requester as to whether access to the record or a part thereof will be given and for access to the record to then be given to the requester. This is referred to as a final access decision. If a final access decision is not issued prior to the expiry of the 30-day time limit, the institution would be in a "deemed refusal" pursuant to section 29(4) of the *Act*.

[14] The appellant requested records on March 14, 2023. The tribunal did not request an extension of time to respond to the access request within the 30-day time limit. As of today, the tribunal has not issued its final access decision despite the filing of an appeal by the appellant and the issuance of a Notice of Expedited Inquiry by the IPC, encouraging it to do so by January 10, 2025.

[15] Therefore, I find the tribunal to be in a deemed refusal situation pursuant to section 29(4) of the *Act*.

[16] To ensure that there are no further delays, I will order the tribunal to issue a final access decision to the appellant without recourse to any time extension under section 27 of the *Act*.

ORDER:

1. I order the tribunal to issue a **final** access decision to the appellant regarding access to the records in accordance with the *Act* without recourse to a time extension, by March 19, 2025.
2. To verify compliance, the tribunal shall provide me with a copy by email of the decision referred to in provision 1 by March 19, 2025.

Original Signed by: _____

Michael Cusato
Case Lead

February 20, 2025 _____