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**Office of the Information and Privacy Commissioner
Province of British Columbia
Order No. 241-1998
June 23, 1998**

INQUIRY RE: The adequacy of a search for records conducted by the Workers' Compensation Board

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1. Description of the review

As Information and Privacy Commissioner, I conducted a written inquiry at the Office of the Information and Privacy Commissioner (the Office) on March 2, 1998 under section 56 of the *Freedom of Information and Protection of Privacy Act* (the Act). This inquiry arose out of a request for review of the response given by the Workers' Compensation Board of British Columbia (WCB) to the applicant's request for records concerning matters relating to one of his claims.

2. Documentation of the inquiry process

On October 15, 1997, the WCB received a request on behalf of the applicant for "full disclosure" of one of his claim files. On November 10, 1997 the WCB responded by disclosing records relating to the applicant's claim file that were generated since his last request dated July 26, 1996. The WCB also disclosed records outside the applicant's claim file found in the Appeal Division, the Psychology Department, and the Panel of Administrators / President's Office.

On November 29, 1997 the applicant submitted a request for review of the WCB's decision to my Office in which he expressed concerns that the search for records conducted by the WCB was inadequate.

3. Issue under review and the burden of proof

The issue before me is whether the WCB conducted an adequate search under section 6 of the Act for the records requested by the applicant.

The relevant section of the Act is as follows:

Duty to assist applicants

- 6(1) The head of a public body must make every reasonable effort to assist applicants and to respond without delay to each applicant openly, accurately and completely.

Section 57 of the Act, which establishes the burden of proof on the parties to this inquiry, is silent with respect to the issue of adequate search. I decided in Order No. 103-1996, May 23, 1996 that the burden of proof in such cases rests with the public body.

4. The records in dispute

The applicant is concerned there may be undisclosed records relating to him at the WCB in the Safety and Security department and in the possession of a director of the Policy, Practice and Projects department.

5. The applicant's case

The applicant's submission consisted of copies of a substantial amount of correspondence involving himself, his MLA, the WCB, and my office. I take it to be his general point that he claims not to have received all of the records that he wishes. The applicant did not make a reply submission.

6. The Workers' Compensation Board's case

The WCB's submission, which was shared with the applicant, gives a history of his requests for access to information, and a detailed review of the search undertaken by the Board in order to satisfy this request.

7. Discussion

Based on my review of the detailed submission of the WCB, I am fully satisfied that the WCB has met its obligations to the applicant under section 6 of the Act.

8. Order

Section 58(1) of the Act requires me to dispose of the issues in an inquiry by making an order under this section. I find that the search conducted by the Workers' Compensation Board of British Columbia in this case was a reasonable effort within the meaning of section 6(1).

Under section 58(3)(a), I require the Workers' Compensation Board of British Columbia to perform its duty under section 6(1) to make every reasonable effort to assist the applicant. However, since I have found that the search conducted was reasonable,

I find that the WCB has complied with this Order and discharged its duty under section 6(1) of the Act.

David H. Flaherty
Commissioner

June 23, 1998