



OFFICE OF THE  
INFORMATION & PRIVACY  
COMMISSIONER  
— for —  
British Columbia

Order 02-42

**WORKERS' COMPENSATION BOARD**

Alexander Boyd, Adjudicator  
August 30, 2002

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**Summary:** The applicant requested a copy of all WCB records pertaining to her that were contained outside of her claim file. The WCB's search for records was adequate and it met its s. 6(1) duty to conduct an adequate search.

**Key Words:** duty to assist – adequacy of search – respond openly, accurately and completely.

**Statutes Considered:** *Freedom of Information and Protection of Privacy Act*, s. 6(1).

**Authorities Considered: B.C.:** Order 02-03, [2002] B.C.I.P.C.D. No. 3.

## 1.0 INTRODUCTION

[1] On August 15, 2001, the applicant made an access request under the *Freedom of Information and Protection of Privacy Act* ("Act") to the Workers' Compensation Board ("WCB") for "a copy of all information about me that may be located apart from my claim file."

[2] In a letter dated August 21, 2001 the WCB responded to the applicant by providing her with a copy of printouts, pertaining to her, from its general database information system. The WCB response letter also informed the applicant that it had contacted a number of its departments that possess records responsive to her request and that each had responded that it had none.

[3] The applicant did not accept the WCB's response. In a letter dated September 19, 2001 she requested that this Office conduct a review of the adequacy of the WCB's search efforts. As mediation was not successful in resolving this matter, a written inquiry

was held under Part 5 of the Act. I have dealt with this inquiry, by making all findings of fact and law and the necessary order under s. 58 as the delegate of the Information and Privacy Commissioner under s. 49(1) of the Act.

## 2.0 ISSUE

[4] The only issue in this inquiry is whether the WCB conducted an adequate search for records and thus discharged its duty to assist the applicant under s. 6(1) of the Act.

[5] Previous orders have established that the burden of proof in such a matter related to s. 6(1) rests with the public body.

[6] I will note here that the applicant did not provide any submissions in this inquiry. This means I have no information, beyond that provided by the applicant in her request for review letter, as to why the applicant believes the WCB's search efforts were not adequate.

## 3.0 DISCUSSION

[7] **3.1 Applicable Principles** – Section 6(1) of the Act requires the WCB to “make every reasonable effort” to assist the applicant. This includes responding without delay “openly, accurately, and completely.” It includes a duty to conduct an adequate search for records responsive to the applicant's request.

[8] The standards for what constitutes an adequate search have been set out in previous orders. The standard is not one of perfection when it comes to searching for records, but the public body must conduct a search that a fair and rational person would expect to be done or would consider to be reasonable. This standard was outlined by Commissioner Loukidelis in Order 02-03, [2002] B.C.I.P.C.D. No. 3, at para.14:

Although the Act does not impose a standard of perfection, it is well established that, in searching for records, a public body must do that which a fair and rational person would expect to be done or consider acceptable. The search must be thorough and comprehensive. The evidence should describe all potential sources of records, identify those searched and identify any sources that were not searched, with reasons for not doing so. The evidence should also indicate how the searches were done, and how much time public body staff spent searching for records.

[9] The WCB has outlined its search efforts (para. 3 of its submission) in responding to the applicant's request. The WCB Freedom of Information and Protection of Privacy Office (“FIPP Office”) has developed a list of departments it contacts routinely when a request for a claim file is received. The list includes those departments that the FIPP Office believes, based on its experience, might hold a claimant's information beyond that held in a claim file.

[10] The WCB stated (para. 4, submission) that the departments on this list were all contacted, except for those relating to vocational rehabilitation, to determine whether they had records that responded to the applicant's request. All of the departments responded that they had none. The WCB also stated that a review of the applicant's claim file and claim log indicated that there was no vocational rehabilitation involvement with the applicant's claim. For this reason, it had determined that there was no need to contact the vocational rehabilitation department as part of the search for records.

[11] In her request for review letter, the applicant lists twelve medical practitioners and medical facilities with which she has apparently had contact, which she indicated should have resulted in the WCB possessing records. In its submission, the WCB provided a point-by-point response regarding the search efforts it conducted in order to locate records that might be in its custody or control as a result of these contacts. It further supports its position in this regard with an affidavit sworn by Sandra Broudy, an officer with the WCB's FIPP Office.

[12] I do not propose to recite each of the 12 contacts or the WCB's response regarding its search efforts for each. Having reviewed the twelve items of concern contained in the applicant's request for review letter, the WCB's submission as to its search efforts (including those related to the 12 contacts) and the affidavit of Sandra Broudy, I am satisfied in light of the above search standards that the WCB has discharged its s. 6(1) duty to conduct an adequate search for records responsive to the applicant's request.

#### **4.0 CONCLUSION**

[13] Because I have found that the WCB's search for records was adequate, it has fulfilled its duty to assist under s. 6(1) and under s. 58(3)(a) of the Act I confirm that the WCB has performed its s. 6(1) duty.

August 30, 2002

#### **ORIGINAL SIGNED BY**

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Alexander Boyd  
Adjudicator