



F07-17-MS No-copying Edict Sidetracks Access Request

A fired employee complained she had been the victim of unreasonable discrimination. Her public body employer told her that her grievance didn't meet the requirements for consideration under the public body's internal human rights complaint process. The woman appealed this decision and in addition made an access to information request for all internal communications about her.

The human resources department told her that in order to consider her appeal it would need access to conflict resolution program coordinator's file, which could not be copied while an appeal was underway. The department gave her the option of deferring her appeal until completion of the access to information process, or putting the access request on hold while the appeal took place. She chose the latter option.

After the appeal had been dealt with, the public body began processing the access request. The woman later complained to us about the length of time the public body was taking to respond. After factoring in the period of time the request had been put on hold, the public body purported to exercise its right under section 10(1) of the *Freedom of Information and Protection of Privacy Act* to extend the response period by 30 days, citing the large number of records involved. Once this time was up, the public body did not, as required under section 10(2), request a further time extension from us. The severed records were released in batches several weeks later.

We found the complaint to be substantiated, and not only because the public body had exceeded the response time it had calculated after factoring in the time the access request was put on hold. FIPPA does not authorize public bodies to decline to copy records requested under FIPPA or to require access requests to be put on hold. The public body acknowledged that the employee should not have been forced to choose whether or not to put her access request on hold; it also assured us it would not in future prohibit the copying of any records requested under FIPPA.

The public body suggested, however, that FIPPA be amended to enable an access request to be put on hold on agreement between a requester and public body. Its reasoning was that doing so might provide an opportunity for a greater number of records to be released in circumstances where certain records were not likely to be available during the statutory period allowed for a response. Although permitting a hold in such circumstances might occasionally work to the benefit of a requester, such an amendment might also create the risk of abuse that outweighs the inconvenience of resubmitting an access request to obtain any outstanding records.