



F09-15-MS Administrative Emails Are Not Policy Advice

A woman involved in a labour relations dispute with her former employer asked the employer for copies of the records related to the dispute. The former employer provided some records but denied access to other information, citing the exceptions to the general right of access under sections 13, 14 and 22 of FIPPA.

Dissatisfied with that response, the woman asked our office to review the former employer's decision to withhold certain information. A review of the records led us to conclude that the former employer had appropriately withheld information under sections 14 (legal advice) and 22 (disclosure harmful to personal privacy) but had withheld too much information under section 13.

Section 13 authorizes a public body to deny access to information that would reveal advice or recommendations developed by or for a public body. The intent of section 13 is to allow for the free flow of ideas during decision-making processes, which might be hindered if every suggestion made by or for a public body came under public scrutiny.

Our effort to mediate a resolution included suggesting that the former employer reconsider its use of section 13 and release additional information to the applicant. The employer had applied section 13, for example, to copies of emails that in our opinion were purely administrative in nature and did not contain or reveal substantive advice or other information related to the employer's decision about the applicant.

After the former employer declined to act on our suggestion, the applicant requested a formal inquiry by the Commissioner. However, before an inquiry could be held the applicant reached an agreement with her former employer that resolved her concerns, as a result of which she withdrew her request for review.