



REVIEW REPORT 001-2018

Saskatchewan Workers' Compensation Board

January 29, 2019

Summary: The Applicant submitted an access to information request to the Saskatchewan Workers' Compensation Board (WCB). WCB responded to the Applicant's request stating that the records sought did not exist. WCB provided the Commissioner with an explanation as to how it arrived at the conclusion that there were no responsive record. The Commissioner found that WCB provided a reasonable explanation for reaching the conclusion that there were no responsive records and recommended the WCB take no further action.

I BACKGROUND

[1] On December 17, 2017, the Applicant submitted an access to information request to the Saskatchewan Workers' Compensation Board (WCB) requesting:

...disclosure(s) of the names of all illegal and illicit informants employed, operated and engaged by the Saskatchewan Workers' Compensation Board; as said names of informants are and have been given on-going confidentiality(ies) and preclusion(s) from (and pertinent to) all SWCB claim files and as these secret and preclusive names are possessed; processed; in the control of/in the custody(ies) of the SWCB...

[2] On December 20, 2017, WCB responded to the Applicant stating that the records sought did not exist and therefore access was refused pursuant to subsection 7(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

[3] On January 2, 2018, my office received the Applicant's request for review dated December 26, 2017.

[4] On January 3, 2018, my office provided notification of the review to both the Applicant and WCB.

II RECORDS AT ISSUE

[5] WCB has taken the position that no responsive records exist, as such there are no records at issue in this review. This review will consider how WCB arrived at the conclusion that no responsive records exist.

III DISCUSSION OF THE ISSUES

1. Does my office have jurisdiction to conduct this review?

[6] WCB is a government institution pursuant to subsection 2(1)(d) of FOIP. As such, I have jurisdiction to conduct this review.

2. How did WCB arrive at the conclusion that the records sought by the Applicant did not exist?

[7] WCB responded to my office's notification of the review indicating that a search for responsive records was not conducted. To support its position that no responsive records exist, WCB instead provided the following:

The WCB does not use "informants" to gather information when adjudicating injury claims. WCB staff will contact those persons who they believe have information that is relevant to the adjudication and that information is placed on each injured worker's claim record. The claim record is available to each injured worker upon request...

[8] To support its position, WCB provided a copy of a policy entitled *Information from Inquiries* and a copy of a 2014 decision of the court in which the Applicant was requesting the names of WCB's informants.

[9] The court decision indicates that the Applicant was requesting WCB “reveal the names of its ‘informants’ past and present who have operated for the Workers’ Compensation Board.” In the decision WCB responded to the request stating:

...[WCB] has the responsibility to ensure that claims made by workers are assessed based upon all relevant information... [WCB] gathers its information through its employees including persons appointed as inquiry personnel and who [WCB] takes [the Applicant’s] reference to “informants” to be referring to. Any reports received by [WCB] are placed on an employee’s file and used as the basis for the determination of an employee’s entitlement to benefits...

[10] The decision concluded stating that the application was dismissed, as the Applicant was not seeking information related to their own claims or files, but instead an application “at large.” The decision also concluded there were no provisions in *The Workers’ Compensation Act, 2013* that “would raise or compel a duty on the [WCB]’s part to provide, at large, the names of any or all individuals employed by the [WCB] to obtain or enquire into matters in relation to the exercise of the Board’s statutory responsibilities.”

[11] My office asked WCB for more information on inquiry personnel as mentioned in the court decision. WCB clarified that ‘inquiry personnel’ is not a job title, and that the task of ‘inquiry’ is performed by “all WCB staff who are entrusted with determining eligibility for workers’ compensation benefits collect the information necessary to make that determination.”

[12] In WCB’s *Information from Inquiries* policy, it provides as follows:

Inquiry means any claim or employer account information-gathering by the Workers’ Compensation Board (WCB) staff or by any other person the WCB may authorize. It does not include investigations concluded by the Internal Audit Department.

Third party means a person who is not the worker, employer, representative or health care provider in relation to any injury claim or employer account.

...

There are many circumstances where information provided on standard forms... is not sufficient to determine entitlement or assessment issues and requires further inquiries.

In other cases, third parties may volunteer information, in person, by telephone, or in writing, concerning the claim of a worker or the circumstances of an employer.

...

Any information obtained or discussed during the course of inquiries will be recorded on the claim or employer account.

...

Third parties who have been identified as having relevant information will be contacted to obtain information directly from them, before they are identified on the claim file or employer account.

...

[13] Based on the information provided by WCB, I find that there is a reasonable explanation for how it reached the conclusion that there are no responsive records.

IV FINDING

[14] I find that WCB has provided a reasonable explanation for how it arrived at the conclusion that there were no responsive records.

V RECOMMENDATION

[15] I recommend WCB take no further action.

Dated at Regina, in the Province of Saskatchewan, this 29th day of January, 2019.

Ronald J. Kruzeniski, Q.C.
Saskatchewan Information and Privacy
Commissioner