



REVIEW REPORT 163-2015

Ministry of Labour Relations and Workplace Safety

September 25, 2015

Summary: The Applicant submitted a request to the Ministry of Labour Relations and Workplace Safety (LRWS). LRWS responded to the Applicant by stating that no records exist pursuant to subsection 7(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP). The Applicant appealed to the Information and Privacy Commissioner (IPC). The IPC found that LRWS made reasonable efforts to search for records. Therefore, he made no recommendations as he was satisfied with the efforts made by LRWS.

I BACKGROUND

[1] On July 2, 2015, the Ministry of Labour Relations and Workplace Safety (LRWS) received the following access to information request:

[Name of third party], Mines Inspectors Report: Gallery One Inspection, First Aid Reports for Injured Worker, June 12, 2014

[2] In a letter dated July 24, 2015, LRWS responded to the Applicant by stating that no records exist pursuant to subsection 7(2)(e) of *The Freedom of Information and Protection of Privacy Act* (FOIP).

[3] On August 13, 2015, the Applicant appealed to my office.

[4] On August 20, 2015, my office notified LRWS and the Applicant of its intention to undertake a review.

II RECORDS AT ISSUE

[5] The focus of this review is on the search efforts conducted by LRWS.

III DISCUSSION OF THE ISSUES

[6] LRWS is a “government institution” pursuant to subsection 2(1)(d)(i) of FOIP.

1. Did LRWS conduct an adequate search?

[7] Section 5 of FOIP provides the right of access as follows:

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a government institution.

[8] Section 5 of FOIP is clear that access can be granted provided the records are in the possession or under the control of a government institution. FOIP does not require a government institution to prove with absolute certainty that records do not exist. It must however, demonstrate that it has made a reasonable effort to identify and locate responsive records.

[9] A reasonable search is one in which an experienced employee expends a reasonable effort to locate records which are reasonably related to the request. The threshold that must be met is one of “reasonableness”. In other words, it is not a standard of perfection, but rather what a fair and rational person would expect to be done or consider acceptable.

[10] In its submission, LRWS described its records management system as follows:

- Paper – documents are filed alphabetically in a folder by Company Name, Mine site and year.
- Electronic – In The Operational Records Management Schedule (ORS) documents are filed by year, company name, activity type and document type.
- In The Safety Information Management System (SIMS) documents are filed by year, company name, document type.

- In the LINKS database (use discontinued April 1, 2014), documents are filed by company name, year, document type.

[11] LRWS provided screenshots of its electronic filing systems to show how documents are organized. The screenshot reflected the bulleted description above.

[12] Then, it provided granular details specific to its search efforts in this review file. Its efforts were detailed in the table below.

Date	FOI Request	Unit	Action	RMS	RC	Time	[Name of Chief Mines Inspector] Action
08.20.15	LRWS14-2015G	MSU	[Name of Mines Inspector] looked through 2014 [Name of a third party] and [Name of second third party] files on ORS	ORS	Year	40min	60 min
08.20.15		MSU	[Name of Mines Inspector] looked through the 2014 [Name of a third party] and [Name of second third party] paper files.	Cabinet	Year	30min	30 min
08.21.15		MSU	[Name of Mines Inspector] looked through the 2014 [Name of a third party] and [Name of second third party] files on SIMS	SIMS	Year	15min	30 min
08.21.15		MSU	[Name of Mines Inspector] looked through 2014 [Name of a third party] and [Name of second third party] files on LINKS	LINKS	Year	25min	

RMS – Record management System

RC – Record Classified

MSU – Mines Safety Unit

[13] Further, in its submission, LRWS explained that legislation requires employers to report basic information on “every accident at the place of employment that causes or may cause the death of a worker; or will require a worker to be admitted to a hospital as in-patient for a period of 72 hours or more”. Therefore, first aid reports are not provided to LRWS’ Occupational Health & Safety (OHS) Division.

- [14] Also, LRWS asserted that if the OHS Division at LRWS would issue an official document such as an Officer's Report, Compliance Undertaking or Notice of Contravention if an inspection was done. However, since no inspection occurred at the Gallery, there is no official document.
- [15] Finally, LRWS advised my office that it does have records regarding the third party organization named in the Applicant's access to information request. It provided me details of these records but asserted that these records were not responsive to the Applicant's request.
- [16] To verify that these records were not responsive to the Applicant's request, an Analyst from my office contacted the Applicant on September 15, 2015 by telephone. He advised her that he did not have interest in those records.
- [17] Based on the above, I find that LRWS made a reasonable effort to search for records.

IV FINDINGS

- [18] I find that LRWS made a reasonable effort to search for records.

V RECOMMENDATIONS

- [19] There are no recommendations to be made at this time as I am satisfied with the efforts made by LRWS.

Dated at Regina, in the Province of Saskatchewan, this 25th day of September, 2015.

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