



Office of the
Saskatchewan Information
and Privacy Commissioner

REVIEW REPORT 308-2018

Saskatchewan Government Insurance

March 21, 2019

Summary:

The Applicant submitted an access to information request to Saskatchewan Government Insurance (SGI) for video surveillance footage of themselves at an SGI Claims Centre. SGI responded to the Applicant advising that no responsive records exist, as video surveillance was not installed at that SGI Claims Centre location until the following year. SGI provided the Commissioner with supporting documentation for when the surveillance system was installed to support their conclusion that no responsive records exist. The Commissioner found that SGI had provided a reasonable explanation that there were no responsive records and recommended that SGI take no further action.

I BACKGROUND

[1] On November 20, 2018, the Applicant faxed Saskatchewan Government Insurance (SGI) seeking surveillance records:

This is my written request for Individual Right of Access to:

My person [name of Applicant] being recorded by surveillance at the SGI Claims Office on Pasqua St. Regina on May 19th 2016 between 9 AM & 3 PM... specifically around 11 AM. I believe SGI has surveillance cameras at the location & that they will show me ([name of Applicant]), driving into the parking lot, entering the reception lobby, delivering document of my Automobile Injury Appeal Commission Request for Appeal Documents, by hand... destined for the AIAC... (on the permission & direction of the AIAC) and you will have recorded me leaving the building & parking lot shortly after my arrival. I want a copy of this surveillance record. At the very least, please confirm that there are security cameras on the SGI Claims Centre Site @ Pasqua St Regina.

[2] On November 21, 2018, SGI responded to the Applicant's request in a letter stating:

I am in receipt of your facsimile date November 20, 2018 wherein you requested a copy of video surveillance recorded by the SGI Claims Office on Pasqua Street from May 29, 2016.

Unfortunately, I am advised by the Manager of Infrastructure, Projects and Operations that SGI did not have surveillance cameras at the Pasqua Street office until fall of 2017. As such, there is no recorded image of your attending Regina South Claims on the above noted date.

[3] On November 26, 2018, the Applicant submitted a request for review to my office.

[4] Upon review of the response from SGI, my office requested SGI issue a revised response to the Applicant that noted what section of *The Freedom of Information and Protection of Privacy Act* (FOIP) it was relying on to deny access to the Applicant. On December 28, 2018, SGI provided a revised response that relied on subsection 7(2)(e) of FOIP, records do not exist, for the denial of access.

[5] On January 2, 2019, my office provided notification to both SGI and the Applicant of my intention to undertake a review of this matter. The notification emails requested that SGI prepare a submission explaining how it determined that records do not exist and invited the Applicant to also provide a submission.

II RECORDS AT ISSUE

[6] As SGI has taken the position that no records exist, there are no records at issue in this review. This review will consider if SGI has provided a reasonable explanation for how it arrived at the conclusion that no responsive records exist.

III DISCUSSION OF THE ISSUES

1. Does my office have jurisdiction in this matter?

[7] SGI is a “government institution” pursuant to subsection 2(1)(d)(ii) of FOIP. Thus, I have jurisdiction to conduct this review.

2. Has SGI provided a reasonable explanation for how it arrived at the conclusion that no responsive records exist?

[8] Section 5 of FOIP provides that an Applicant has the right of access to records in the possession or under the control of a government institution. Section 5 of FOIP provides:

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.

[9] However, a government institution cannot provide access to records that do not exist. Subsection 7(2)(e) of FOIP contemplates such situations. This provides:

7(2) The head shall give written notice to the applicant within 30 days after the application is made:

...

(e) stating that access is refused for the reason that the record does not exist;

[10] FOIP does not require a government institution to prove with absolute certainty that records responsive to an access to information request do not exist. It must, however, demonstrate that it has conducted a reasonable search to locate them, or provide a reasonable explanation for how it arrived at the conclusion that no responsive records exist.

[11] In SGI’s response to the Applicant, it stated that video surveillance was not installed at the Pasqua Street SGI Claims Centre until the fall of 2017. As such, no video surveillance of the Applicant could have been captured on May 29, 2016.

[12] In SGI’s submission to my office, the same explanation was provided as follows:

My office contacted [name of employee], the Manager, Infrastructure, Projects and Operation, concerning [the Applicant’s] request. [The Manager, Infrastructure,

Projects and Operation] managed all business operations and all security issues for all SGI buildings. All video surveillance and security issues are handled by this office.

[The Manager, Infrastructure, Projects and Operation] advised our office (when we requested a review of video for this claims centre) that SGI did not have surveillance at the Pasqua Street office until the fall of 2017. Consequently, there is no surveillance footage available to review during this time request by [the Applicant]... There are no other places these records would be located. SGI feels it has meet [sic] the requirements of a reasonable search effort in this regard.

- [13] On February 19, 2019, my office contacted SGI by phone to request if it had any documentation to support their claim that surveillance at the SGI Claims Centre on Pasqua Street had not been installed until the fall of 2017.
- [14] On February 21, 2019, SGI provided my office with two emails to support their claim. The first email was from the Manager, Infrastructure, Projects and Operation advising SGI's access and privacy office that "the video camera installation started on Monday October 30, 2017. Prior to that date SGI did not have a CCTV system at that location."
- [15] The second email was an October 27, 2017 email from the Manager, Infrastructure, Projects and Operation to the SGI Building Operator for the Pasqua Street SGI Claims Centre regarding the installation schedule for the video surveillance. The email provides as follows:

Per our conversation we can confirm that the video surveillance installation can follow the below schedule:

1. Monday October 30

- [name of company] and subtrade (electrician) to contact SGI Building Operator [name and contact information for SGI Building Operator]

-discuss access requirements with [name of SGI Building Operator] – keys, card access.

-review install schedule

2. Tuesday October 31

- Contractors to complete a PreJob/Tool Box Meeting with SGI prior to starting any work.

-Begin installation.

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

IV FINDING

[17] I find that SGI has provided a reasonable explanation for how it arrived at the conclusion that no responsive records exist.

V RECOMMENDATION

[18] I recommend SGI take no further action.

Dated at Regina, in the Province of Saskatchewan, this 21st day of March, 2019.

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