

**NUNAVUT
INFORMATION AND PRIVACY COMMISSIONER**

Review Decision 02-04
April 29, 2002
Review File: 02-136-5

A. BACKGROUND

By letter of January 29th, 2002, the Applicant applied under the *Access to Information and Protection of Privacy Act* (the "Act") to the Department of Education for

Any and all records relating to communications between Kivalliq School Operations of the Department of Education and the Department of Human Resources as well as the Federation of Nunavut Teachers regarding my relocation from Whitehorse to Chesterfield Inlet in August, 2001

The Department failed to respond to the Request for Information within 30 days of the request as required by Section 8 of the *Access to Information and Protection of Privacy (ATIPP) Act*. By letter dated March 3rd, 2002 and received in my office by fax on March 4th, the Applicant requested that I consider the failure to provide a response as a deemed refusal and to review that refusal to provide the records requested. By letter to Ian Rose, ATIPP Co-Ordinator for the Department of Education dated March 8th, 2002 I requested that the Department provide me with an explanation for their apparent failure to provide the information requested. In the same letter, the Department was asked to provide me with copies of all responsive records.

In a letter dated April 5th, 2002, the Department provided me with copies of all records which had been identified as responsive to the Request for Information, indicating as well that :

"We believe that [the Applicant] has copies of all attached correspondence except for the fax cover sheets and verifications included in Attachments 3a, 4b, 4c, and 5a.

On April 10th, 2002, I wrote back to the Department, asking them to confirm that they had forwarded copies of all of the responsive records to the Applicant as the wording of the letter was unclear. I also advised that if I had not received that confirmation from them within 15 days of the date of that letter, I would complete my review and provide recommendations to the Minister responsible.

As of the date of this Review Recommendation, I have not received the confirmation from the Department of Education which I requested. I have, on the other hand, received a letter from the Applicant indicating that he has not received the records in question from the Department.

B. RECORDS AT ISSUE:

At issue are a series of 19 records totaling 20 pages, in relation to the Applicant's transfer from the Yukon to Nunavut to take up a position with the Department of Education. It is clear from the materials that I have received that there is a dispute between the Applicant and the government as to what portion of his moving and storage costs should be paid for by the government.

C. ISSUES AND DISCUSSION

Section 8 of the ATIPP Act states as follows:

- (1) The head of a public body shall respond to an applicant not later than 30 days after a request is received unless:
 - a) the time limit is extended under section 11; or
 - b) the request has been transferred under section 12 to another public body.
- (2) The failure of a head to respond to a request in time is to be treated as a decision to refuse access to the record.

I will review each record separately and evaluate it as best I can without the requested input from the Department.

Record #1 - Fax Cover Sheet (undated) from Kivalliq School (Chris DaSilva) to Bob Genge (last name uncertain)-

The message part of the cover sheet is hand written. It is difficult to read but it refers to a job offer to a particular individual who is referred to by first name only, but who I assume to be the Applicant. I can see nothing obvious in this document which might fall under any exemption from disclosure under the Act.

Record #2 - Hand written letter dated July 17/01 from "Chris" to "Bob" -

This is another hand written document. It is not on letterhead and there is no indication that it a government communication. I accept, however, that the "Chris" and "Bob" referred to in the correspondence are employees of the Government of Nunavut. It also discusses a job offer to a particular individual who is referred to by first name only and whom I assume to be the Applicant. Once again, there is nothing obvious in this correspondence which would bring it under any of the exemptions to disclosure provided for in the Act.

Record #3 - Facsimile Transmittal Sheet dated November 5, 2001 from Leah Aliyak to Chris Purse

The contents of this faxed memorandum relate to the "removal entitlements" of the Applicant. It does refer to a Third Party, the Applicant's Wife. The reference to the Applicant's wife is a passing one and does not, to my mind, constitute an unreasonable invasion of her privacy if revealed to the Applicant. Again, there is nothing obvious on the face of this record which might exempt it from disclosure under one of the exemptions to the Act.

Record #4 - A copy of an e-mail from Leah Aliyak to Chris DaSilva (with reply) dated October 25, 2001.

This is an e-mail which obviously deals with administrative matters surrounding the

“removal entitlements” of the Applicant. There is one sentence in the first paragraph of the initial e-mail which contains significant personal information about a Third Party. That sentence, which begins with the words “We had initially...” should be severed, but there is nothing obvious in the balance of the record which might exempt it from disclosure

Record #5 - A memorandum dated October 24th, 2001 from the Applicant to Leah Aliyak.

This is a memorandum written by the Applicant and cannot, therefore, contain any exempt information, at least *vis a vis*, the Applicant.

Record #6 - Facsimile Transmittal Sheet dated October 24, 2001 from Leah Aliyak to the Applicant's wife

Although this record is addressed to the Applicant's wife, there is nothing on the face of it that suggests that it would be an unreasonable invasion of her personal privacy to provide the record to the Applicant as the only personal information in the record is her name. I note, however, that this record suggests that there is an attachment, which I do not appear to have received. This may have been overlooked and I would suggest a review of the records should be made to consider whether it is responsive to the request and, if so, whether it is protected from disclosure under any of the exemption sections of the Act.

Record #7 - Copy of an e-mail from Leah Aliyak to an individual by the name of “Kaiman” dated October 24th, 2001

This record refers to “removal entitlements” of both the Applicant and his wife. It would be difficult to edit this document such as to remove the personal information of the Applicant's wife and still maintain any real meaning. As a Third Party, the Applicant's Wife should be consulted in accordance with Section 26 of the Act. Alternatively, if the Applicant can provide the Department with his wife's written consent to release this record to the Applicant, there should be no need for further consultation. Beyond this, I

can see nothing obvious in the record which would suggest that it is subject to any other exemptions under the Act.

Record #8 - "Send Report" dated October 24, 2001

This is apparently a record of facsimile transmissions and receptions from a particular fax machine. There is nothing in this document which might exempt it from disclosure under the Act.

Record #9 - Letter to the Applicant from Christian M. DaSilva dated December 20, 2001

This letter is addressed to the Applicant and cannot, therefore, be subject to any reasonable exclusions under the Act *vis a vis* the Applicant.

Record #10 - Confirmation Report - Memory Send dated December 20, 2001

This appears to be a record of the successful transmission of the letter referred to as Record #9 to a stated fax number. I can see nothing that would exempt it from disclosure under the Act.

Record #11- Confirmation Report - Memory Send dated December 20, 2001

This appears to be a record of the successful transmission of the letter referred to in Record #9 to a different stated fax number. There is nothing obvious which would exempt it from disclosure under the Act.

Record #12 - Fax Transmission Cover Note from Chris DaSilva to Jane A. dated December 19, 2001.

This is a hand written cover note which makes reference to a letter from the Applicant. Again, there is nothing obvious which would suggest that any exemptions apply to its disclosure.

Record #13 -Fax Cover page from the Applicant to Mr. Chris Purse dated December 17, 2001

This is nothing more than a simple cover note. There is nothing in it that should be exempted under the provisions of the Act.

Record #14 - Letter from the Applicant to Christopher K. Purse dated December 17th, 2001 (2 pages)

This is a letter from the Applicant and it cannot, therefore, be subject to any exemption, at least *vis a vis* the Applicant himself.

Record #15 - Weigh Bill #A160105

This record appears to be a list of items shipped from the Yukon to Nunavut by the Applicant's wife. This is the wife's personal information and its disclosure would, in my estimation, be an unreasonable invasion of her privacy unless, of course, she provides her consent. Again, she should be consulted in accordance with section 26 of the Act. Alternatively, if the Applicant can provide the Department with a signed consent to release the information to him, there would no longer be any bar to its disclosure.

Record #16 - Weigh Bill A160108

This appears to be a hand written version of Weigh Bill #A160105, although it is difficult to read and may include different information. The same considerations as apply to Record #15, however, apply to this record.

Record #17 - First Air Letter of Transport dated August 18, 2001

Again, this relates to shipping of "personal effects" of the Applicant's wife. It is subject to the same comments as apply to Records 15 and 16.

Record #18 -Atlas Van Lines (Canada) Ltd. Invoice #78191

This record is addressed to the Applicant and relates to transportation of goods. There is nothing obvious in this document which would, to my mind, make it exempt from disclosure under the Act.

Record #19 - Weigh Bill #160108

This is the same record as referred to in Record #16, except that it contains far more hand written information. It is subject to the same considerations as Records 15, 16 and 17.

D. RECOMMENDATIONS

In light of the above, I make the following recommendations:

- a) That, with the exception of Records 4,7,15, 16, 17 and 19, all of the records outlined above be provided to the Applicant within 30 days of the date that this Recommendation is accepted by the Minister;
- b) That Record #4 be provided to the Applicant within 30 days of the date that this Recommendation is accepted by the Minister, subject to the severing of the third party's personal information as outlined above;
- c) That, should the Applicant provide the Department with a written consent from his wife agreeing to the release of her personal information to the Applicant, all remaining documents, including the edited portion of Record #4, be provided to the Applicant within 30 days of the date that this Recommendation is accepted by the Minister;

- d) In the event that the Applicant is not able to provide his wife's written consent to the release of the remaining records to the Applicant before the Minister has accepted these recommendations, that the Department follow the procedures set out in section 26 of the Act to give the Applicant notice of the request being made.

Elaine Keenan Bengts
Nunavut Information and Privacy Commissioner