

**NUNAVUT
INFORMATION AND PRIVACY COMMISSIONER**

Review Decision 04-13
September 17, 2004
Review File: 04-218-5

A. BACKGROUND

In an undated letter received in my office on June 28th, 2004, the Applicant requested me to review the response he received from the Department of Executive and Intergovernmental Affairs (EIA) regarding his request for copies of information about himself. The Applicant's initial request was directed to the Department of Justice and was for a copy of any file held by certain named individuals, all employed by various departments within the Government of Nunavut. One of the names included in the request was that of Paul Okalik. Mr. Okalik was both Minister of Justice and Premier of Nunavut. Because of Mr. Okalik's dual role, the Applicant was asked if he wished to have access to files held by Mr. Okalik in his capacity as the Minister of Justice or in his capacity as Premier. The Applicant responded that he wanted any files which Mr. Okalik had about the Applicant in any capacity. To the extent that the request was for information in the files of Mr. Okalik in his capacity as Premier, therefore, the Department forwarded a copy of the Applicant's request to EIA for a response.

It appears that the Applicant was advised by EIA that a search had been conducted of the Premier's records but that they could find no references in those files to the Applicant and they could find no records which related to his employment situation with the Government of Nunavut.

The Applicant asked me to review the response because he felt that it would be remarkable in the circumstances of the case that the Premier had not been kept advised of the situation.

B. ISSUE

The sole issue which I have to review, therefore, is whether the Premier's Office or Executive and Intergovernmental Affairs failed to identify responsive documents and provide them to the Applicant.

C. DISCUSSION

Leading up to this request for information, the Applicant found himself in a difficult and, I would suggest, somewhat unusual situation which impacted upon his employment with the Government. There does appear to have been some discussion among a number of fairly senior government staff members about the Applicant's situation. The argument made by the Applicant is simply that it is inconceivable that the Premier would not have been kept advised of the situation as it unfolded, or that he would not have had some input into the eventual outcome of the situation. He also notes that at some point an e-mail was sent or received which had the Premier's name in it which, in his opinion, suggested that the Premier played a direct role in the matters respecting the Applicant's employment.

For its part, EIA gave me an outline of the searches done and confirmed that the searches were completed by individuals other than Mr. Okalik. It also appears that there was some co-ordination between EIA and other departments which had received the same Request for Information from the applicant, all in an effort to ensure that the Applicant's request was met.

I am satisfied that a thorough search of the Department's records was undertaken and that there is no reason to believe that the Premier held any records about the Applicant in his capacity as Premier. I say this for several reasons, most particularly:

1. Although the Applicant's situation was unusual, and may provoke some passing interest by the Premier, this is not the sort of issue that a Premier would likely

become involved in directly. The Applicant was not a senior bureaucrat within the government, nor was his a position which required any direct contact between the Premier and the Applicant. The Applicant's employment situation was not such that you would expect the most senior government official, the Premier, to become involved in. It was a personnel matter. There is simply no reason why the Premier would get involved in the personnel issue.

2. I note that in his capacity as Minister of Justice, briefing notes were prepared for Mr. Okalik, which briefing notes have been provided to the Applicant as a result of his Request for Information. With the Minister having been kept apprised of the situation, it is even more unlikely that a further report would be provided to Mr. Okalik in his capacity as Premier.
3. I have reviewed all of the materials which the Applicant received in response to his Request for Information. Nowhere in the documentation is there any indication that Mr. Okalik was in any way involved in the Applicant's employment review. Because the file appears to be well papered in terms of who was getting copies of what, I have no reason to believe that the Premier kept a separate file either in his capacity as Minister of Justice or in his capacity as Premier or, in fact, that he was ever involved in any way with the Applicant's employment problems.

C. RECOMMENDATION

Having completed my review, I am satisfied that there were no records in the possession or control of Executive and Intergovernmental Affairs, particularly in the Office of the Premier, which were responsive to the Applicant's request for information.

Further, in my opinion there is nothing before me to suggest that there might be any records which were not produced by Mr. Okalik in his capacity as Premier.

It would, therefore, be my recommendation that nothing further need be done to comply with the Request for Information submitted to the Department of Executive and Intergovernmental Affairs.

Elaine Keenan Bengts
Nunavut Information and Privacy Commissioner
September 17, 2004