

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER F2017-52

June 14, 2017

ALBERTA LABOUR

Case File Number 005568

Office URL: www.oipc.ab.ca

Summary: An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated October 4, 2016 to Alberta Labour (Public Body). The Applicant received confirmation of the receipt of his request that same day.

The Applicant requested a review of the time taken by the Public Body to respond.

The Adjudicator found that the Public Body failed to make every reasonable effort to respond within the timelines provided in the Act.

Statutes Cited: **AB:** *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 11, 14, 72.

I. BACKGROUND

[para 1] An Applicant made an access request under the *Freedom of Information and Protection of Privacy Act* (the Act) dated October 4, 2016 to Alberta Labour (Public Body). The Applicant received email confirmation of the receipt of his request that same day.

[para 2] A letter dated October 5, 2016 was sent by the Public Body to the Applicant confirming the scope of his request. A letter dated October 19, 2016 from the Public Body to the Applicant provided a fee estimate for the request. The Public Body sent another letter dated November 17, 2016, confirming a previous phone conversation with the Applicant regarding the

scope of his request, and providing a new fee estimate. The Public Body sent a further letter dated December 13, 2016, extending its time to respond to the request to January 12, 2017 (pursuant to section 14(1)(b) of the Act).

[para 3] On April 19, 2017, this Office received a request for review from the Applicant, as he had not yet received a response by the Public Body as required by the Act.

[para 4] In its submission to the inquiry, the Public Body stated that it responded to the Applicant's request on May 31, 2017.

II. RECORDS AT ISSUE

[para 5] As the issue in this inquiry relates to the timeliness of the Public Body's response, there are no records at issue.

III. ISSUE

[para 6] The Notice of Inquiry, dated May 19, 2017 states the issue for this inquiry as follows:

Did the Public Body comply with section 11 of the Act (time limit for responding)?

IV. DISCUSSION OF ISSUE

[para 7] Section 11 of the Act states:

11(1) The head of a public body must make every reasonable effort to respond to a request not later than 30 days after receiving it unless

(a) that time limit is extended under section 14, or

(b) the request has been transferred under section 15 to another public body.

(2) The failure of the head to respond to a request within the 30-day period or any extended period is to be treated as a decision to refuse access to the record.

[para 8] The Applicant's access request is dated October 4, 2016. The Public Body extended its time to respond under section 14 of the Act, to January 12, 2017.

[para 9] The Public Body's submission states:

The public body has reviewed the access request and acknowledges that our response to the applicant is past the deadline. There were no intentional delays imposed by the public body; however, delays did occur due to the complex nature of the request, the fact that multiple consultations with other public bodies was required in order to ensure that all responsive records were retrieved and ongoing and extensive program area consultation.

While a combination of staffing shortages and a higher than usual volume of requests has had an impact on all the access, Alberta Labour acknowledges that a response to this FOIP request is significantly past due and that it is an anomaly in that regard.

As of May 31, 2017 the finalized package has been mailed out to the applicant and we are currently in the process of reimbursing the fee deposit on this file out of fairness. The public body has updated the applicant to this status for their request and the forthcoming reimbursement.

[para 10] Although the Public Body has now responded to the Applicant as required by the Act, section 11 of the Act requires a public body to make every reasonable effort to respond to an access request in 30 days. The Public Body extended its time to respond; however, the Public Body's response to the Applicant came more than four months after its extended deadline. In its submission, the Public Body acknowledges that it did not comply with the timelines imposed by the Act.

[para 11] Therefore, I find that the Public Body failed to make every reasonable effort to respond within the timelines set out in section 11 of the Act.

V. ORDER

[para 12] I make this Order under section 72 of the Act.

[para 13] I find that the Public Body did not respond to the Applicant within the time limit set out in section 11 of the Act. As the Public Body has now responded to the Applicant's access request, it is not necessary for me to order the Public Body to respond to the Applicant under the Act.

Amanda Swanek
Adjudicator