

**FILE NO. 02 03 46**

**GHAZNAVI, MANZAR ATA,**

applicant,

v.

**CENTRE D'EXPERTISE EN  
RÉADAPTION,**

respondent.

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**INTERIM DECISION**

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**THE APPLICATION FOR AN EXAMINATION OF THE DISAGREEMENT**

Mr. Ata Manzar Ghaznavi requested a complete copy of his file from the Centre d'expertise en réadaptation (the "Centre") and Mr. Benjamin Dahan on January 10, 2002 and again on January 17, 2002. His registered letters were returned to him. He then filed an application for review with the Commission d'accès à l'information (the "Commission") on March 7, 2002. A hearing was held in Montreal on June 27, 2002.

**THE POSITION OF THE APPLICANT**

Mr. Ghaznavi wishes to have returned the original of a prescription given to him by Dr. Thierry Dahan, the brother of Mr. Benjamin Dahan. The latter, who has medical training, acts as a technical assistant at the Centre. Mr. Ghaznavi testifies that he had obtained some medical supplies from the Centre but had returned them because he did not find them satisfactory. He states that he is certain that the prescription is in his file at the Centre. He acknowledges that he has a copy of some of his documents. These copies were obtained from the CSST. He wishes access to his complete file and deplors that Mr. Benjamin Dahan refuses all communication with him.

**THE POSITION OF THE RESPONDENT**

Mr. Benjamin Dahan states that the Centre does not have a file on Mr. Ghaznavi at the present time.

**THE RELEVANT FACTS**

The following facts emerge from the testimony of the two parties.

Mr. Ghaznavi had a file with the Centre in which there were three documents : a prescription from Dr. Thierry Dahan, a requisition made out to the C.S.S.T. authorizing the rental of a TENS unit and the purchase of a therapeutic corset and a letter dated July 25, 2001 which he wrote himself. This letter requested information about the Centre.

However, the Centre does not have a file on Mr. Ghaznavi at the present time. Mr. Dahan's testimony is vague and he asserts that he does not know the location of the file. He states that the file disappeared. However, he finally acknowledges having transferred most of the file to Dr. Thierry Dahan after May 28, 2001 because of a complaint lodged at that time with the Collège des médecins. However, he states that the Centre was never in possession of the original of any prescription.

Mr. Dahan points out that Mr. Ghaznavi already had copies of the documents that were in his file. This was not denied, but Mr. Ghaznavi states that he wishes to recover the originals.

## THE DECISION

The *Act respecting the protection of personal information in the private sector*<sup>1</sup> (the "Act") states that those carrying on an enterprise must take certain measures to protect the personal information of individuals who deal with them :

10. Every person carrying on an enterprise who collects, holds, uses or communicates personal information about other persons must establish and apply such safety measures as are appropriate to ensure the confidentiality of the information.

The enterprise must ensure that the file is accessible :

27. Every person carrying on an enterprise who holds a file on another person must, at the request of the person concerned, confirm the existence of the file and communicate to the person any personal information concerning him.

29. Every person carrying on an enterprise who holds files on other persons must take the necessary steps to ensure the exercise by a person concerned of the rights provided under articles 37 to 40 of the Civil Code of Québec and the rights conferred by this Act. In particular, he must inform the public of the place where, and manner in which, access to the files may be granted.

36. The person holding information that is the subject of a request for access or rectification must, if he does not grant the request, retain the information for such time as is necessary to allow the person concerned to exhaust the recourses provided by law.

51. Every person must furnish to the Commission any information it requires for the examination of a disagreement.

55. The Commission has all the powers necessary for the exercise of its jurisdiction; it may make any order it considers appropriate to protect the rights of the parties and rule on any issue of fact or law.

The Commission may, in particular, order a person carrying on an enterprise to communicate or rectify personal information or refrain from doing so.

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<sup>1</sup> R.S.Q., c. P-39.1.

Mr. Benjamin Dahan's testimony illustrated the casual manner in which personal information is handled at the Centre.

The enterprise has contravened the Act by not organizing the personal information collected in such a way that it is accessible to the individual involved. However, the Act does not recognize the right of the individual to recover the originals of documents.

**THE COMMISSION** therefore **ORDERS** Benjamin Dahan and the Centre d'expertise en réadaptation, within thirty days of the present decision, to recover the information previously in the file of Mr. Ata Manzar Ghaznavi and to subsequently send a copy to the applicant and an identical copy to the Commission;

**RESERVES** the applicant's rights in the present case.

Montreal, October 15, 2002

**JENNIFER STODDART**  
Commissioner