



Commission d'accès  
à l'information  
du Québec

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**Date : 20021220**

**File : 01 18 93**

**Commissioner : M<sup>e</sup> Jennifer Stoddart**

**RICHARD ANTHONY BREAKENRIDGE**

Applicant

v.

**MINISTÈRE DU REVENU**

Respondent

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**DECISION**

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**THE REQUEST FOR REVIEW**

[1] Mr. Richard Anthony Breakenridge, the applicant, requested on October 8, 2001, all records held by the Ministère du Revenu (the "Ministère") concerning him, including all historical records. The Ministère replied on November 1, 2002, stating that a request it had received by fax was not specific enough to allow it to reply and that it had attempted unsuccessfully to contact Mr. Breakenridge by telephone to obtain more information about his needs.

[2] On December 6, 2001, Mr. Breakenridge asked the Commission d'accès à l'information (the "Commission") to review the refusal, stating that he did not yet have a decision and that in spite of three phone calls he was unsuccessful in supplying more information.

## **THE PROOF AND ARGUMENTS SUBMITTED**

[3] In answer to the Commission's request for the reasons motivating this failure to respond, the Ministère replied at length on August 9, 2002. The Ministère's reasons can be summarized as follows:

- In spite of several efforts made by telephone to assist the applicant, it was impossible to ascertain with any degree of precision exactly what information he requested;
- The Ministère's decision of November 1, 2002 rejected the request as not being specific enough within the terms of article 42 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*<sup>1</sup>. It also invited Mr. Breakenridge to reapply with a more clearly defined request;
- The applicant did receive the Ministère's decision, even though he alleges that he received no answer to his request;
- This request for information has no object, given the Ministère's decision in another subsequent file where his request was more explicit and where the Ministère was able to identify the information desired.

[4] In file no. 02 06 15, the same applicant requested on March 6, 2002:

- a) Personal information which concerns Me (refer to my access to information request)
- b) list of persons who have consulted information which concerns Me (refer to my access to information request)
- c) list of categories of persons who were exempted from registering when they consulted information which concerns Me (refer to my access to information request).

[5] The following information was then sent by the Ministère to the applicant:

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<sup>1</sup> R.S.Q., c. A-2.1.

- a) The list of personnel who consulted his file between April 1<sup>st</sup> 1996 and March 18, 2002;
- b) the electronic records of transactions in his files;
- c) the notices of assessment sent to him for the tax years 1989, 1991 to 1994, 1998 to 2000;
- d) the income tax reports filed by him for the years 1998 to 2000. Reports for the years 1989, and 1991 to 1994 were not available. The applicant produced no report for the years 1980 to 1988, 1990, and 1995 to 1997.

[6] Parts of this information, which the Ministère felt to be confidential, were extracted from the documents sent to the applicant.

[7] On November 15, 2002, at the Commission's request, the applicant commented on the Ministère's position, stating that he felt he had the right to all the information compiled which was in his files without exception:

The information was compiled by the individual as part of his or her professional or official governmental capacity: Section 69 of the MR Act and section 53, 54 et 59 is improperly applied. Section 56, 58 and 57 of the Act further supported my position that information compiled by the individual as part of his or her professional or official governmental capacity is not considered as the individual's personal. (sic)

## **DECISION**

[8] The following sections of the *Act respecting Access to documents held by public bodies and the Protection of personal information* are applicable:

42. To be receivable, a request for access to a document must be sufficiently precise to allow the document to be located.

44. The person in charge must lend assistance in drafting a request and identifying the document requested to any applicant who requires it.

130.1 The Commission may refuse or cease to examine a matter if it has reasonable cause to believe that the request is frivolous or made in bad faith or that its intervention would clearly serve no purpose.

[9] In the light of the above facts the Commission concludes that the Ministère has made honest attempts to understand what the applicant wished to obtain in the present request. When he subsequently made a more precise request, the Ministère was able to retrieve much of the information the applicant was seeking and send it to him.

[10] **FOR THESE REASONS, THE COMMISSION:**

[11] **CONCLUDES** that its continued intervention would clearly serve no purpose and **CLOSES** the file.

**JENNIFER STODDART**  
Commissioner

M<sup>e</sup> Alain-François Meunier  
Attorney for the Respondent