



Office of the
Information and Privacy
Commissioner of Alberta

January 29, 2010

Commissioner Work expresses Grave Concern over recent Court of Appeal Ruling

The Alberta Court of Appeal issued a ruling earlier this week in which it said that in order to extend timelines in the inquiry process, the Commissioner must give reasons and that those reasons can be reviewed in every case by the courts.

In response to the ruling, Information and Privacy Commissioner Frank Work has issued the following statement:

“The consequences of this decision are really bad for Albertans and for the Office of the Information and Privacy Commissioner.

As a result of this decision, likely hundreds of Albertans will lose the privacy remedies they thought they received in response to their complaints under the Personal Information Protection Act. All the effort and resources put into pursuing complaints and preparing submissions has gone for naught.

What is more, given what the Court wants my Office to do in order to extend a timeline on a case, organizations subject to the Act will have ample opportunity to delay and defeat complaints and inquiries. I anticipate a tidal wave of judicial review applications based on this order. This has implications for the Courts themselves.

In order to do what the Court wants in a timely fashion, I would need to double my staff. Clearly those kinds of resources are not available in these times. When one looks at what the Court wants, giving reasons which can be judicially reviewed every time a timeline is extended, one is left wondering whose interests are being protected. This simply creates another avenue of judicial review. For the poor applicant or complainant, all you are making them do is start all over again.

What is distressing is that the Court seems to have had no regard for the decision of the Supreme Court of Canada in *Dunsmuir v. New Brunswick*. In that case the Court said that the Courts should respect “governmental decisions to create administrative bodies with delegated powers”.





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Finally, this decision may have dire implications for every tribunal in this province which has stipulated timelines. There should be a lot of concern on that front.

There was however a strong dissenting opinion.

I will be seeking leave to appeal this decision to the Supreme Court of Canada.

I will also be asking the Legislative Assembly to amend the Personal Information Protection Act to restore Albertans privacy rights as soon as possible.”

The Appeal Court ruling can be viewed at www.albertacourts.ca

Go to Court of Appeal and enter 2010 ABCA 26

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