

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER P2017-09

November 1, 2017

CO-OP TAXI

Case File Number 006296

Office URL: www.oipc.ab.ca

Summary: An applicant requested that the Commissioner review CO-OP Taxi's failure to respond to her three access requests. During the inquiry, the Organization responded to the access request.

The Adjudicator did not make an order, as the Organization had responded to the access request. However, she recommended that the Organization review its processes for responding to access requests.

Statutes Cited: **AB:** *Personal Information Protection Act*, S.A. 2003, c. P-6.5 ss. 28, 52

I. BACKGROUND

[para 1] On June 12, 2017, the Commissioner received the Applicant's request for review under the *Personal Information Protection Act* (PIPA). In her request for review, the Applicant stated that she had made three separate requests for her personal information from CO-OP Taxi (the Organization) and that the Organization had not responded to any of them. She attached three different requests for her personal information for the time frame between November 18, 2014 – September 25, 2016. The first was dated October 18, 2016, the next dated February 15, 2017, and the final request was dated April 19, 2017.

[para 2] The Commissioner decided that the request for review should proceed directly to inquiry on the issue of whether the Organization was in compliance with the terms of section 28 of PIPA. A notice of inquiry was issued on September 28, 2017.

[para 3] The Organization responded to the Applicant's April 19, 2017 request for her personal information on October 19, 2017. The Organization acknowledged that it had not complied with the time limit in PIPA for responding and apologized for the lateness of its response. The Organization stated that it had not received the two requests the Applicant states she submitted prior to April 19, 2017.

[para 4] On October 20, 2017, I asked the Applicant whether she wished to continue with the inquiry in relation to the issue of whether the Organization had complied with the time limit for responding in PIPA. On October 30, 2017, the Applicant confirmed that she did.

II. ISSUE

Did the Organization comply with section 28 of the Act (time limit for responding)?

[para 5] Section 28 of PIPA establishes the time in which an organization must respond to an access request for personal information. It states:

28(1) Subject to this section, an organization must respond to an applicant not later than

(a) 45 days from the day that the organization receives the applicant's written request referred to in section 26, or

(b) the end of an extended time period if the time period is extended under section 31.

(2) An organization is not required to comply with subsection (1)(a) if the time period is extended under section 31.

(2.1) The failure of an organization to respond to a request in accordance with subsection (1) is to be treated as a decision to refuse the request.

[para 6] Under section 28 of PIPA, an organization has 45 days from the day it receives an applicant's written request for personal information to respond to it. As noted in the background above, the Organization has conceded that it did not comply with its obligation under section 28(1) and has now responded to the Applicant.

[para 7] The Applicant is concerned that the Organization states it did not receive her access requests of October 18, 2016 and February 15, 2017. The Applicant states that she had these access requests hand delivered to the Organization by a friend and that she

observed the friend deliver the requests. The final access request, which the Organization responded to on October 19, 2017, was faxed to the Organization.

[para 8] As the Organization has now responded to the Applicant's access request, there is no benefit to ordering it to do so. However, I recommend that the Organization review its processes for responding to PIPA requests to ensure that its employees are able to process hand delivered access requests appropriately. I accept the Applicant's statements that she had two prior access requests hand delivered, as there is no reason to doubt these statements. Given that the Organization was able to produce the final access request, which was faxed, it appears that information that is hand delivered and information that is faxed are processed by the Organization differently. However, PIPA requires that an organization respond to an access request within 45 days of receiving it, regardless of whether the request is faxed or hand delivered.

III. ORDER

[para 9] I make this Order under section 52 of the Act.

[para 10] As the Organization has now responded to the Applicant, I will not order it to do so. However, I recommend that the Organization review its processes to ensure that access requests it receives are responded to in accordance with PIPA.

Teresa Cunningham
Adjudicator