

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
DIVISIONAL COURT**

*MacFarland, Cosgrove and Blair JJ.*

<b>B E T W E E N:</b>	)	
	)	
MINISTER OF HEALTH	)	<i>William J. Manuel</i>
	)	for the applicant
	)	Applicant
- and -	)	
	)	
	)	
DAVID GOODIS, SENIOR ADJUDICATOR	)	<i>William S. Challis and Shirley Senoff</i>
and ONTARIO ASSOCIATION OF	)	for the respondent David Goodis,
NATUROPATHIC DOCTORS	)	Senior Adjudicator
	)	
	)	Respondents
	)	<i>Maurice A. Green</i>
	)	for the respondent Ontario
	)	Association of Naturopathic Doctors
	)	
	)	
	)	<b>Heard:</b> November 14, 2000

**MacFARLAND J. (endorsement):**

[1] The Supreme Court of Canada in *Baker v. Canada*, (1999), 174 D.L.R. (4th) 193, at p. 210-211 quoted with approval de Smith’s *Judicial Review of Administration Action* where it is stated:

“the aim is not to create “procedural perfection” but to achieve a certain balance between the need for fairness, efficiency and predictability of outcome.”

[2] Here the adjudicator in the Notice of Inquiry setout the three issues that required his consideration on which he invited the parties to make representations. In his respect of the first issue the parties were directed to consider:

“the application of the exceptions to the setout in s. 13(2)(a) through (k) of the Act.”

[3] In our view the principles of fairness set out in *Baker* were met and the Ministry had adequate opportunity to make representations. We were not persuaded there was any unfairness in the circumstances of this case where the adjudicator obtained and relied on information from widely known and publicly available government sources.

[4] As to the second ground, we are not persuaded that the Adjudicator's decision is unreasonable. I carefully reasons the adjudicator, after considering arguments to the contrary, concluded that the report in issue was not exempt from production under 13(2)(k) because it was addressed to the Minister. He concluded the report was one to the ministry and therefore by definition to the institution as required. In our view this conclusion was reasonable given the structure of the Act we observe in concluding that counsel were agreed that the report in issue was caught by section 13(1) initially and it was not necessary for this court to consider the property of that. Application is dismissed.

[5] The commission does not seek costs and none are awarded. Costs to the Ontario Association of Naturopathic Doctors fixed in the sum of \$2000.00.

November 14, 2000

MacFARLAND J.