

ONTARIO COURT (GENERAL DIVISION)
DIVISIONAL COURT

RE: THE ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION, DISTRICT 39 and
THE WELLINGTON COUNTY BOARD OF
EDUCATION AND TOM MITCHINSON,
ASSISTANT INFORMATION AND PRIVACY
COMMISSIONER OF ONTARIO

BEFORE: O'DRISCOLL, HARTT and MOLDAVER JJ.

COUNSEL: IAN J. FELLOWS
FOR THE APPLICANT

GUY W. GIORNO
FOR WELLINGTON COUNTY BOARD OF EDUCATION

WILLIAM S. CHALLIS AND
DAVID S. GOODIS
FOR TOM MITCHINSON

HEARD: DECEMBER 20, 1994

ENDORSEMENT

This is an application for judicial review of an order of the respondent Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario, upholding the decision of the Wellington County Board of Education denying the request of the applicant, The Ontario Secondary School Teachers' Federation, District 39, for access to the home telephone numbers of permanent teachers in the employ of the Board. The Federation is the trade union which represents all secondary school teachers in Ontario holding mandatory collective bargaining rights pursuant to the School Boards and Teachers Collective Negotiations Act, R.S.O. 1990, c.S.2.

By letter dated November 21, 1991, the applicant, through its president, requested the home telephone numbers of all members of District 39. The request was denied by the Board on the basis that:

(1) it is not stipulated in the contract(s) between the Board and the Federation that the telephone numbers of all employees will be shared with District 39;

(2) the disclosure of this information was considered to be an invasion of each teacher's personal privacy.

Although the response denied access, the Board offered to help the Federation to seek the consent of the permanent teachers to the requested disclosure. The Union declined, asserting that it was entitled to the information without the consent of the teachers.

The applicant then, through its solicitor, appealed to the Information and Privacy Commissioner. In upholding the refusal of the respondent Board to provide access to the home telephone numbers, the Assistant Commissioner was called upon to interpret provisions of the Municipal Freedom of Information and Protection of Privacy Act and make relevant findings of fact in the context of personal information. These decisions made within the core area of expertise of a specialized tribunal are clearly entitled to curial deference. The question before the Assistant Commissioner involved the interpretation of his home statute, not collective bargaining law. Intervention by this Court is justified only if there exists no rational basis for the decision. In our view, the approach to the Act taken by the Assistant Commissioner and the findings made were not unreasonable patently or otherwise.

The application is dismissed.

Costs to be paid by the applicant to the respondent Board in the sum of \$4,000.00. The Assistant Information and Privacy Commissioner does not seek costs.

HARTT J.
O'DRISCOLL J.
MOLDAVER J.

Released: February 6, 1995