

**FILE: 2006-0105**

**OTTAWA, NOVEMBER 20, 2006**

**S. FAYE SMITH**

**COMPLAINANT**

**AND**

**THE COMMISSIONER OF THE CORRECTIONAL SERVICE OF CANADA**

**RESPONDENT**

**AND**

**OTHER PARTIES**

<b>MATTER</b>	Request for order for provision of information
<b>DECISION</b>	The request is denied
<b>DECISION RENDERED BY</b>	Merri Beattie, Member
<b>LANGUAGE OF DECISION</b>	English
<b>INDEXED</b>	<i>Smith v. Commissioner of the Correctional Service of Canada et al.</i>
<b>NEUTRAL CITATION</b>	2006 PSST 0013

## REASONS FOR DECISION

### INTRODUCTION

[1] The complainant seeks an order from the Public Service Staffing Tribunal (the Tribunal) for the provision of information related to a complaint filed pursuant to subsection 77(1) of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13 (the *PSEA*).

### BACKGROUND

[2] The Correctional Service of Canada (the CSC) conducted an internal advertised appointment process (process number 2006-PEN-IA-ONT-16) to fill AS-02, Training Coordinator positions.

[3] On August 15, 2006, S. Faye Smith, the complainant, was notified, as a candidate in the appointment process, of the appointments and/or proposed appointments of three persons.

[4] On September 5, 2006, the complainant filed a complaint with the Tribunal.

[5] On October 17, 2006, the complainant wrote to the Tribunal, requesting that the Tribunal order the respondent to provide the following information:

- the questions and answers; and,
- the scores and the notes of the assessment board members with respect to the complainant and the successful candidates.

[6] On October 27, 2006, the reply to the complainant's request was provided on behalf of the Commissioner of the Correctional Service of Canada, the respondent.

## ISSUE

[7] The Tribunal must answer the following question:

Is the information requested by the complainant relevant to the complaint filed?

## SUBMISSIONS OF PARTIES

[8] The complainant submits that a refusal to allow her to examine the requested information “may negatively impact [her] complaint against this process.” Moreover, she claims “that some abuse may have occurred in ranking of merit.”

[9] The respondent submits that the information requested by the complainant is not relevant to her complaint.

## ANALYSIS

[10] In considering a request for an order for provision of information, the Tribunal must be satisfied that the parties have complied with subsection 16(1) of the *Public Service Staffing Tribunal Regulations*, SOR/2006-6 (the *PSST Regulations*). Subsection 16(1) reads as follows:

16. (1) In the interest of facilitating the resolution of the complaint, the complainant and the deputy head or the Commission must, as soon as possible after the complaint has been filed, exchange all relevant information regarding the complaint.

[11] The relevance of the information that is sought is, therefore, the key determination to be made. The requesting party, in this case the complainant, must demonstrate to the Tribunal’s satisfaction that there is a clear linkage between the information sought and the matters raised in the complaint. The information must be arguably relevant to the complaint, and the requesting party bears the onus of demonstrating that relevance.

[12] This complaint involves the manner and timing of the release of the results of the advertised process. The complainant has not provided any explanation as to why the questions, answers, candidate scores and notes of the assessment board are relevant to this complaint. The complainant has not met the onus of demonstrating that this information is arguably relevant to the complaint.

[13] *Re West Park Hospital and Ontario Nurses' Association* (1993), 37 L.A.C. (4<sup>th</sup>) 160, at 167, summarizes the factors that should be considered where the disclosure of information is contested, and an order for disclosure is sought. In addition to the need of the requesting party to demonstrate arguable relevance, a further factor is that "the [Tribunal] should be satisfied that the information is not being requested as a 'fishing expedition'." A mere suspicion raised by a party that a document or documents may be relevant, without more, amounts to a fishing expedition. The complainant's speculation that something might be uncovered if she is permitted access to the requested information is insufficient to warrant an order for provision of that information.

#### DECISION

[14] For the reasons stated above, the Tribunal denies the request for an order for provision of information.

Merri Beattie  
Member

PARTIES OF RECORD

Tribunal File:	2006-0105
Style of Cause:	<i>S. Faye Smith and the Commissioner of the Correctional Service of Canada et al.</i>
Hearing:	Written request, decided without the appearance of the parties
Date of Reasons:	November 20, 2006