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Says Feds Can't Hide Records

Canada Revenue Agency has been cited by a federal judge for concealing documents from a taxpayer. The agency withheld files despite three requests, mistakenly claiming records had been destroyed or never existed in the first place.

"There was a deemed refusal to disclose," concluded Justice John O'Keefe, who found the tax department "consistently delayed disclosure of information, withheld information, destroyed information and misled the applicant as to what information was available".

Sandra Summers, a Sooke, B.C. taxpayer, was audited in 2008 over claims of business losses on her 2007 return and saw wages garnisheed by government order. Summers settled her tax bill, but ran into stumbling blocks when she attempted to see her Canada Revenue file. In a detailed timeline documented in Federal Court:

- August 29, 2012 Summers filed an *Access To Information* request for all records concerning her audit;
- November 30, 2012 Canada Revenue released an incomplete package of 88 pages;
- December 18, 2012 Summers complained to the Office of the Information Commissioner;
- December 22, 2012 Summers contacted the agency, noting the files were incomplete and again requested "all information";
- December 31, 2012 the agency "discovered an audit" overlooked in its initial search, and released the information;
- January 17, 2013 Summers wrote a third time noting files were still incomplete;
- March 14, 2013 the agency acknowledged "further investigation turned up archives of computer diary entries" and two letters.

Summers was also told portions of her records were destroyed. Only after she sued in Federal Court on June 26, 2013 did Canada Revenue conduct a top-to-bottom search for documents in her case: "It discovered it had not destroyed records", and produced another 36 pages from files stored at tax offices in Surrey, B.C. and Vancouver Island some ten months after Summers' initial request.

Justice O’Keefe concluded the tax department did not disclose all records till Summers sued in Federal Court: “Canada Revenue Agency, prior to the judicial review being launched, had not disclosed all information which existed. It only did so after the launch of the judicial review.”

Revenue Minister Kerry-Lynne Findlay would not speak to reporters outside the Commons. Summers could not be reached for comment.

Judge O’Keefe said he found no evidence tax officials acted through “malice” in failing to promptly answer the tax-filer’s request, but awarded Summers court costs. Under the *Access To Information Act* public agencies must disclose pertinent records within 30 days of a public request, or provide a timeline for the release of records with explanation for the delay.

By Paul Delahanty 🇮🇪🇮🇪

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