

In the Court of Appeal of Alberta

Citation: Oleynik v. University of Calgary, 2013 ABCA 105

Date: 20130326
Docket: 1201-0082-AC
Registry: Calgary

Between:

Anton Oleynik

Appellant
(Applicant)

- and -

**The University of Calgary and the Information and
Privacy Commissioner of Alberta**

Respondent
(Respondent)

The Court:

**The Honourable Madam Justice Ellen Picard
The Honourable Mr. Justice Peter Martin
The Honourable Mr. Justice Jack Watson**

Memorandum of Judgment

Appeal from the Decision by
The Honourable Madam Justice J.B. Veit
Dated the 19th day of March, 2012
Filed the 23rd day of March, 2012
(Docket: Q1101-09075)

Memorandum of Judgment

The Court:

[1] The appellant is a university professor. In 2007, he applied to the Social Sciences and Humanities Research Council of Canada for a research grant. His application was not successful.

[2] One of the members of the selection committee that considered the application was a professor at the University of Calgary (the Professor). In 2008, Dr. Oleynik made an access for information request to the University of Calgary for all e-mail communications containing his name, sent or received by the Professor regarding his application. In its response, the University advised that as the selection committee members did not e-mail one another, the Professor had no records responsive to Dr. Oleynik's request.

[3] Concerned that the University had not conducted an adequate search, Dr. Oleynik asked the Information and Privacy Commissioner to review the matter. In response to the Commissioner's inquiry, the Professor filed an affidavit explaining the process followed by members of the selection committee and again advising that she did not have any e-mail correspondence with any committee member regarding any application.

[4] That satisfied the adjudicator who concluded that the University had conducted a reasonable search for responsive records. Dr. Oleynik however, remained dissatisfied. He brought an application for a judicial review of the adjudicator's decision. That review was dismissed with written reasons issued on March 19, 2012. This matter comes to us by way of an appeal of that decision.

[5] Having considered the submissions of Dr. Oleynik and the reasons of the chambers judge who dismissed the judicial review, we find we are in substantial agreement with her reasons for rejecting the appellant's arguments. We further find that we need not address any broader issues raised by her decision. The appeal is dismissed.

[6] At the hearing of this appeal, counsel for the University advised that depending on the outcome, he may wish to bring an application for enhanced costs. The parties may address that issue in written submissions not to exceed five pages. We would ask that the respondent University submissions be filed with the Clerk of the Court in Calgary, no later than April 5, 2013; and the appellant's response filed no later than April 19, 2013.

[7] Judgment accordingly.

Appeal heard on March 8, 2013
Memorandum filed at Calgary, Alberta
this 26th day of March, 2013

Picard J.A.

Martin J.A.

Watson J.A.

Appearances:

A. Oleynik the Appellant, In Person

I. Bernardo
for Respondent, The University of Calgary