

PIPA CASE SUMMARY P2006-CS-007

Steel company allegedly disclosed personal information without individual's consent.

Summary

The Complainant alleged that he was notified that his employer, Prudential Steel Ltd. ("Prudential Steel"), had attempted to appeal his Workers' Compensation Board ("WCB") claim decision. He requested further information from the WCB about this appeal and discovered that a consulting company and a physician had accessed his medical files. The Complainant was concerned that this information had been collected without his consent.

Jurisdiction

PIPA applies to provincially-regulated private sector organizations operating in Alberta, including Prudential Steel. The Information and Privacy Commissioner has jurisdiction in this case because Prudential Steel Ltd. is "an organization", as defined in section 1(i) of the Act. Section 36 of the Act empowers the Commissioner to conduct investigations to ensure compliance with any provision of PIPA and make recommendations to organizations regarding their obligations.

Analysis & Findings

Generally speaking, an organization requires the consent of the individual under section 7(1)(d) of PIPA to disclose his or her personal information. There are a few specific exceptions to the requirement of consent, including:

An organization may collect personal information about an individual without the consent of that individual but only if... (b) the collection of the information is pursuant to a statute or regulation of Alberta or Canada that authorizes or requires the collection [section 14(b), PIPA].

The Alberta *Workers' Compensation Act* ("WCA") states that:

*...where a matter is being reviewed or appealed under section 46 or 120,
(a) the worker, or the worker's personal representative or dependant in the case of the death or incapacity of the worker, or the agent of any of them, and
(b) the employer or the employer's agent
are entitled to examine all information in the Board's files that is relevant to the issue under review or appeal, and those persons shall not use or release that information for any purpose except for the purpose of pursuing the review or appeal [Emphasis added] [section 147(3), WCA].*

Since the disclosure of the WCB file containing the Complainant's medical information was made under the WCA, the disclosure was permissible under PIPA. Before an appeal, the employer does not have custody or access to many documents contained in the WCB's file. The WCB reported that on appeal, it is normal and lawful practice for the WCB (rather than the employer) to disclose the contents of a claim file, including medical information, to the employer or the employer's agent.

Prudential Steel confirmed that it authorized the consulting company to act as its agent in the matter, and the physician was also contracted by the two organizations to provide an independent opinion on the Complainant's diagnosis. This disclosure amongst these organizations was in accordance with PIPA.

Recommendation

The investigator found that the Organization did not contravene section 7(1)(d) of PIPA.

Section 5(2) of PIPA ensures that organizations that employ the services of contractors are jointly accountable for the privacy compliance of their contractors. The Office of the Information and Privacy Commissioner has encountered cases in which an organization is unaware that its agent is not adhering to PIPA while acting on its behalf. Nonetheless, the organization is held equally accountable for the agent's conduct. For Prudential Steel's protection, the investigator recommended that it consider enhancing any future contracts with its agents by including a privacy statement expressing the fact that both parties agree to adhere to the requirements of relevant privacy legislation.