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| Request made by employer to WINZ for information about employee |
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| Legislation Official Information Act 1982, s 9(2)(a)  Agency Work and Income Department  Ombudsman Anand Satyanand  Case number(s) W42529  Date August 1999 |

*Request made by employer to WINZ for information about employee—request refused on privacy grounds—information required for Employment Tribunal hearing—no countervailing public interest considerations outweighing need to withhold*

An employer, whose employee had taken a case to the Employment Tribunal claiming unjustifiable dismissal, requested information from the Department of Work and Income (WINZ) to confirm that the employee had obtained assistance from Income Support at a certain time. The employer stated that this information was needed in order to ensure that there was a fair hearing at the Employment Tribunal. WINZ refused the request on the grounds of privacy, stating that it was not usual practice to disclose information held about individuals without the approval of the person concerned.

In the course of the investigation, the view was formed that the information requested was of a private nature. It was noted that the employer considered there was no privacy interest involved, as it was stated that what the employer was seeking was confirmation from WINZ of what the employee had told the employer directly. However, it seemed there was no way to conclusively establish what the employee may have advised the employer, particularly given a subsequent dispute in relation to this matter at a mediation hearing. In the circumstances, it appeared that it was necessary to withhold the information in order to protect the privacy of a natural person, and section 9(2)(a) of the OIA applied to the information.

No countervailing public interest considerations favouring release were identified which would outweigh the need to withhold the information in order to protect the privacy of a natural person. While the employer advised that the information was required for an Employment Tribunal hearing, this appeared to be for the employer’s own private interest, rather than in the public interest. To the extent that there is a public interest in ensuring that Employment Tribunal hearings are just and fair, the Tribunal has its own procedures for the purpose of achieving this. The view was therefore formed that there was good reason to withhold the information at issue.

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