

## ***“I want my file!” “But you’re not an employee!”***

The reach of provincial privacy legislation is ever expanding, as evidenced by a recent decision from B.C.’s Privacy Commission requiring a company to disclose the job applications of a group of unsuccessful applicants.

By way of background, the B.C. *Personal Information Protection Act* (PIPA) governs the collection, use and disclosure of personal information by private organizations. In particular, PIPA specifically provides that individuals have a right to the disclosure of their personal information that is retained by a private organization.

The facts regarding this specific decision related to individuals who applied for a job at Compass Group Canada Ltd. but were not successful. The unsuccessful applicants subsequently requested that Compass Group disclose their application records. Although some documents were disclosed, others were withheld.

The Commissioner then conducted an inquiry which resulted in an order requiring Compass Group to disclose all the requested documents, with some redactions.

The Commission didn’t agree that the application records contained information that could harm Compass Group’s competitive position, which is an exception to the disclosure requirement, since no unique staffing or recruitment strategy would be divulged with the disclosure.

While this decision comes from B.C, similar privacy legislation giving rise to these rights exists in Quebec, Alberta, as well as in the federal jurisdiction.

The key takeaway is that an individual’s employment rights begin during the recruitment process. In provinces where privacy legislation exists, employers must always keep in mind that individuals may have disclosure rights and, accordingly, should be mindful of the contents of all recruitment related documentation.

If you have any questions about this, please do not hesitate to contact us to speak with an e2r® Advisor.