

ONTARIO COURT OF JUSTICE  
(GENERAL DIVISION)  
DIVISIONAL COURT

**SMITH A.C.J.O.C., SOUTHEY and ROSENBERG JJ.**

**B E T W E E N:**

GREAT LAKES POWER LIMITED

Applicant

- and -

TOM WRIGHT, INFORMATION AND  
PRIVACY COMMISSIONER (ONTARIO),  
REGIONAL ASSESSMENT COMMISSIONER,  
REGION NO. 31 AND ONTARIO HYDRO

Respondents

)  
)  
) Peter A. Milligan  
) for the Applicant  
)  
) William S. Challis and  
) Mary C. L'Donoghue  
) for the Privacy Commissioner  
)  
) Donald G. Mitchell  
) for the Regional Assessment  
) Commissioner  
)  
) Mitchell Weinberg  
) for Ontario Hydro  
)  
) HEARD: May 17, 1996

**ROSENBERG J. (orally):**

**E N D O R S E M E N T**

This court has held in Ontario (Workers' Compensation Board v. Ontario (Assistant Information and Privacy Commissioner) (1995), 23 O.R. (3d) 31 at 40 in relation to section 17(1)(c) of the Act that the Commissioner erred in requiring detailed and convincing evidence. Clearly the decision of the Commissioner is wrong because he applied the wrong test, and the decision was patently unreasonable. Having advised the parties that he was applying the detailed and convincing test, the award of the Commissioner is fatally flawed and cannot stand.

We cannot speculate as to what the decision would have been had the Commissioner applied the correct test.

Because of the decision as to this aspect of the application, it will not be necessary to deal with the other grounds for the application.

The application is allowed and Order P-689 of the Commissioner is quashed.

Costs to the applicant fixed at \$3,000 to be paid by the respondent Regional Assessment Commissioner.

Dated: May 17, 1996

ROSENBERG J.