



DATE: MAY 30, 1995

CASE NO.: 94-JSA-1

In the Matter of

JOHN ROBINSON,
Complainant

v.

IDAHO DEPARTMENT OF EMPLOYMENT,
Respondent.

DECISION AND ORDER

This claim arises under the Job Service System, as authorized by the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. § 49 et seq., and applicable regulations at 20 C.F.R. Part 658,

On October 15, 1992, Complainant John Robinson filed a complaint with the Idaho Department of Employment Job Service Office in Sandpoint, Idaho, alleging that either it or the Idaho Department of Employment Job Service Office in Coeur d' Alene had violated the Privacy Act by disclosing confidential information concerning prior job assignments to a former employer, Ray Logan, after Complainant filed a workers' compensation claim against him. The Department investigated the complaint and on November 24, 1992, determined that no confidential information concerning Complainant had been released. Complainant then requested a hearing before a State Hearing Official. Accordingly, a hearing was held on January 28, 1993. The Idaho Department of Employment subsequently determined that there was no evidence that staff from either of the two offices disclosed any confidential information to Mr. Logan.

Complainant appealed the Idaho Department of Employment's decision to the Regional Administrator of U.S. Department of Labor Employment and Training Administration. On November 2, 1993, the Regional Administrator determined that the Idaho Department of Employment did not violate any Privacy Act provisions.

On November 16, 1993, Complainant requested a hearing before the Office of Administrative Law Judges. The above-captioned case was assigned to the undersigned, who was subsequently advised by the parties that they wished to have the matter decided upon the record.¹

¹ The following abbreviations are used in referring to the record: TR: Transcript of January 28, 1993, Idaho Department of Employment hearing; EX: Exhibits submitted as part of the January 28, 1993, hearing.

Accordingly, and pursuant to 20 C.F.R. § 658.425(c), this Decision and Order constitutes the Final Decision of the Secretary of Labor.

Findings of Fact and Conclusions of Law

In the summer of 1992, Complainant was registered for work in both the Coeur d'Alene and Sandpoint Job Service offices of the Idaho Department of Employment. TR13. According to Complainant, he worked for Ray Logan for about 5 days in July 1992. Complainant subsequently filed a workers' compensation claim for an alleged knee injury, which he suffered while working for Mr. Logan. Id. In controverting his workers' compensation claim, Mr. Logan filed a written response, which listed the names and addresses of two employers that Complainant had worked for through the Job Service program in August 1992, along with the dates he worked for them. TR15.

Complainant testified at the January 28, 1993, hearing that he believes Mr. Logan could only have gotten this information through the Sandpoint or Coeur d'Alene Job Service Office. TR18. Mr. Logan, however, testified that he did not get the information concerning these other two jobs from the Department of Employment. According to him, an anonymous caller gave him the names of these two employers, that he then contacted and got additional information from. TR24-25.

Complainant contends that the anonymous caller who gave Mr. Logan the above-described information must have worked in either the Sandpoint or Coeur d'Alene Job Service Office. However, Lenora Fields, manager of the Coeur d'Alene office, and Lee Sieckmann, manager of the Sandpoint office, testified that: (1) their offices' policy is to not release confidential information on job applicants unless they have their written permission to do so; (2) every staff member is aware of this policy; (3) there is no record that any information concerning Complainant had been released; (4) they had interviewed every staff member and found that no one had released any confidential information concerning Complainant; and (5) they do not believe that Mr. Logan's information was obtained through their office because the information he provided in controversion of Complainant's workers' compensation claim is not consistent with the information contained in their records. Specifically, Mr. Logan provided a different address for one of the employers and gave a different contact person for the other employer. TR30-33; TR36; EX9A; EX7A.

Whether Respondent Violated the Privacy Act

Complainant contends that Mr. Logan must have received his information about Complainant's subsequent Job Services assignments from someone who works for Job Services. He has offered no evidence, however, in support of his claim. Rather, his sole basis for his contention is his belief that there was no other source from whom Mr. Logan could have obtained this information.

In contrast, Respondent has provided substantial evidence that supports a finding that its Coeur d'Alene and Sandpoint offices did not provide Mr. Logan with any information

concerning Complainant. First, the managers of these two offices have provided credible testimony that none of their staff released any confidential information regarding Complainant's job assignments. Second, Mr. Logan, who I find to be a credible witness, stated under oath that he received the names of these two employers from an anonymous caller.² Finally, I credit Ms. Field's observation that the information Mr. Logan provided in controverting Complainant's workers' compensation claim differs from the information contained in Job Services' records. All of this leads me to conclude that Mr. Logan did not obtain his information from Job Services.

Accordingly, and in the absence of any contrary probative evidence, I find and conclude that the Idaho Department of Employment Job Services Office in Sandpoint and Coeur d' Alene did not release any confidential information concerning Complainant to Mr. Logan and, as such, did not violate the Privacy Act.

IT IS SO ORDERED.

Edward C. Burch
Administrative Law Judge

² The fact that Mr. Logan, who was living in Sandpoint at the time, was residing in a very small community where people have greater opportunity to observe the activities of their neighbors and accordingly might wish to remain anonymous lends greater credibility to his testimony.