

**DISCIPLINE COMMITTEE
OF THE COLLEGE OF EARLY CHILDHOOD EDUCATORS**

Citation: College of Early Childhood Educators vs Sivamini Srikrishnarajah,
2012 ONCECE 7
Date: 2012-10-15

IN THE MATTER OF the *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7,
Sched. 8 and the Regulation (Ontario Regulation 223/08) thereunder;

AND IN THE MATTER OF discipline proceedings against Sivamini Srikrishnarajah,
RECE, a member of the College of Early Childhood Educators.

PANEL: Nici Cole, RECE, Chair
Sophia Tate, RECE
Bruce Minore

BETWEEN:)	
)	
COLLEGE OF EARLY CHILDHOOD EDUCATORS)	M. Jill Dougherty, WeirFoulds LLP, for College of Early Childhood Educators
- and -)	
)	
SIVAMINI SRIKRISHNARAJAH, RECE REGISTRATION # 19883)	Sivamini Srikrishnarajah, RECE on her own behalf
)	
)	
)	Erica J. Baron, McCarthy Tétrault LLP, Independent Legal Counsel
)	
)	Heard: October 15, 2012

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on October 15, 2012 at the College of Early Childhood Educators (the “College”) at Toronto.

A Notice of Hearing [Exhibit 1(d)], dated May 29, 2012, was served on Sivamini Srikrishnarajah, RECE (the “Member”), requesting her attendance before the Discipline Committee of the College of Early Childhood Educators (the “Committee”) on June 28, 2012

to set date for a hearing, and specifying the charges. Counsel for the College submitted an Affidavit of Service sworn by Samiyah Aziz, Hearings Coordinator [Exhibit 1(d)], and sworn June 5, 2012, detailing confirmation that the Notice of Hearing was served on the Member. The hearing was subsequently set for the dates October 15, 16, 17 and 18, 2012. The matter was adjudicated on October 15, 2012.

The Member was in attendance at the hearing and was not represented by legal counsel.

Counsel for the College tendered a Brief of Documents (Exhibit 2), which included an Affidavit of Sue Corke, Registrar and Chief Executive Officer, sworn on October 5, 2012, outlining the current registration status of the Member and any historical changes that occurred since she became a member of the College.

THE ALLEGATIONS

The allegations against the Member, as stated in the Notice of Hearing dated May 29, 2012, are as follows:

IT IS ALLEGED that Sivamini Srikrishnarajah, RECE (the “**Member**”), is guilty of professional misconduct as defined in subsection 33(2) of the ECE Act in that:

- a) she failed to supervise adequately a person who was under the professional supervision of the Member, contrary to Ontario Regulation 223/08, subsection 2(2);
- b) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8);
- c) she acted in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to Ontario Regulation 223/08, subsection 2(10);
- d) she failed to comply with the ECE Act and the professional misconduct regulation made under the Act (being Ontario Regulation 223/08), contrary to Ontario Regulation 223/08, subsection 2(19);
- e) she failed to maintain a safe and healthy learning environment, contrary to

Ontario Regulation 223/08, subsection 2(8), and Standard III.A.1 of the College's *Code of Ethics and Standards of Practice* (the "**Standards of Practice**");

- f) she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to Ontario Regulation 223/08, subsection 2(8) and Standard IV.B.3 of the College's Standards of Practice;
- g) she failed to work collaboratively with colleagues in the workplace in order to provide a safe, secure, healthy and inviting environment for children and families, contrary to Ontario Regulation 223/08, subsection 2(8) and Standard IV.C.1 of the College's Standards of Practice;
- h) she failed to know, understand and abide by the legislation, policies and procedures that are relevant to the Member's professional practice and to the care and learning of children under her professional supervision, contrary to Standard IV.A.2 of the College's Standards of Practice and/or engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood educators; and
- i) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22) and Standard IV.E.2 of the College's Standards of Practice.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and that the Brief of Documents (Exhibit 2) included an Agreed Statement of Facts, which provides as follows:

1. Megan Gosse, Isabella Belfiore, Kavita Singh and Sivamini Srikrishnarajah (collectively, the "**Members**") are now, and were at all times relevant to the allegations contained in the Notice of Hearing, registered members ("**RECE**")s of the College of Early Childhood Educators (the "**College**").
2. On August 16, 2011, the Members were each employed at the Markham Village Childcare Centre (the "**Centre**") located at 6605 Highway 7 East, Markham, Ontario as follows:
 - Ms. Singh was the primary RECE responsible for supervising a room of junior toddlers. She had tendered her resignation from her employment at the Centre prior to August 16, 2011 and was serving her two weeks notice;

- Ms. Gosse was the primary RECE responsible for supervising a room of senior toddlers;
 - Ms. Belfiore was an assistant RECE to Ms. Singh and Ms. Gosse;
 - Ms. Srikrishnarajah was an RECE and the supervisor of the Centre whose responsibilities included overall supervision of the other staff and the children enrolled at the Centre. She had tendered her resignation from her employment at the Centre prior to August 16, 2011, but had agreed to continue working there for the week of August 15th, 2011, at the request of the Centre's Director.
3. On the morning of August 16, 2011, Ms. Srikrishnarajah completed and initialled the Daily Playground Safety Checklist which was maintained with respect to the fenced playground behind the Centre. Ms. Srikrishnarajah indicated on the checklist that the playground fence and gate were secure and the lock was functioning.
 4. No further safety check was performed on the playground by any of the Members prior to allowing the toddlers outside to play. While the playground was enclosed by a fence with latched gates, the gates were unlocked and the latches were located on the inside of the gates where they were accessible to the children in the playground.
 5. At or about 10:15 a.m. on August 16, 2011, the Members began preparing the toddlers in the senior and junior toddler rooms to go outside to play in the fenced playground behind the Centre. Over the next approximately 10 minutes, thirteen (13) toddlers (two (2) years of age and under) were released into to the playground area.
 6. On the morning of August 16, 2011, Ms. Srikrishnarajah, Ms. Singh, Ms. Gosse and Ms. Belfiore went outside with the toddlers into the playground. Ms. Singh and Ms. Srikrishnarajah entered the playground first, with the junior toddlers. Shortly thereafter, Ms. Gosse and Ms. Belfiore entered the playground with the senior toddlers and Ms. Srikrishnarajah went back inside the Centre, leaving the

other Members in the playground. While in the playground with the toddlers, Ms. Belfiore was using and/or looking at her cellular phone.

7. Each of the Members was responsible for supervising and ensuring the safety of the toddlers who were in the playground area on the morning of August 16, 2011. While under the Members' supervision, eight (8) toddlers left the playground unattended, without their departures being noticed by any of the Members. Five (5) of those toddlers returned to the playground by themselves.
8. The remaining three (3) toddlers who had left the playground (two of whom were two (2) years of age and one of whom was 18 months of age) walked across a nearby parking lot to a Shoppers Drug Mart at a strip mall adjacent to the Centre. When entering the Shoppers Drug Mart, one of the three toddlers caught and injured his hand in the store's automatic door.
9. Employees of the Shoppers Drug Mart noticed the three toddlers in or around the store unaccompanied. One of the employees applied a cold compress to the injured toddler's finger. Store staff then called the York Regional Police to report the incident.
10. A witness to these events alerted the Centre to the whereabouts of the three (3) toddlers. That information was relayed to the Members, none of whom had yet noticed that the toddlers were missing from the playground.
11. Two of the Members (Ms. Gosse and Ms. Srikrishnarajah) went to the Shoppers Drug Mart to retrieve the toddlers and were permitted to escort them back to the Centre once the attending police officer had finished questioning the store staff. The attending officer later questioned staff at the Centre about the incident.
12. Although the York Regional Police conducted an investigation, they did not lay any charges arising from it. On August 16th, 2011, the Centre made a Serious Occurrence Report about the incident to the Ministry of Child and Youth Services (the "**Ministry**"), which issued a Notice of Direction to the Centre under s. 15 of the *Day Nurseries Act, R.S.O 1990, c. D.2*. The Centre's licence was suspended by the Ministry and it subsequently went out of business.

13. Concerns about the supervision of children at the Centre arising from the incident were also reported to the York Region Children's Aid Society (the "**CAS**"), which initiated a child protection investigation. While the CAS verified a significant lack of supervision being provided to the children involved in the incident, the CAS closed its protection file after confirming that the Centre was no longer in business.

GUILTY PLEA

14. The parties agree that these facts are substantially accurate.

15. The undersigned Member (the "Member") admits that by reason of the facts set out above, she engaged in professional misconduct, as defined in subsection 33(2) of the *Early Childhood Educators Act, 2007* in that:

- she failed to supervise adequately a person who was under the professional supervision of the Member, contrary to *Ontario Regulation 223/08*, subsection 2(2);
- she failed to maintain the standards of the profession, contrary to *Ontario Regulation 223/08*, subsection 2(8);
- she acted in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional, contrary to *Ontario Regulation 223/08*, subsection 2(10);
- she failed to comply with the Act and the professional misconduct regulation made under the Act (being *Ontario Regulation 223/08*), contrary to *Ontario Regulation 223/08*, subsection 2(19);
- she contravened a law, which contravention caused a child or children under the Member's professional supervision to be put at or remain at risk, contrary to *Ontario Regulation 223/08*, subsection 2(21);

- she failed to maintain a safe and healthy learning environment, contrary to *Ontario Regulation 223/08*, subsection 2(8), and standard III.A.1 of the College's Standards of Practice;
- she failed to observe and monitor the learning environment and anticipate when support or intervention was required, contrary to *Ontario Regulation 223/08*, subsection 2(8) and standard IV.B.3 of the College's Standards of Practice;
- she failed to work collaboratively with colleagues in the workplace in order to provide a safe, secure, healthy and inviting environment for children and families, contrary to *Ontario Regulation 223/08*, subsection 2(8) and standard IV.C.1 of the College's Standards of Practice;

16. The Member understands the nature of the allegations that have been made against her and that by voluntarily admitting to the allegations; she waives her right to require the College to prove the case against her.

17. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.

18. The Member understands that depending on any penalty ordered by the Discipline Committee, the panel's decision and reasons may be published, including the facts contained herein and the Member's name.

19. The Member understands that any agreement between her and the College does not bind the Discipline Committee.

20. The Member acknowledges that she has had the opportunity to receive independent legal advice.

DECISION

Having considered the Exhibits filed, and based on the Agreed Statement of Facts and guilty plea, and the submissions made by counsel, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Sivamini Srikrishnarajah committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 223/08, section 2, subsections (2), (8), (10), (19) and (22), and Standards III.A.1, IV.B.3, IV.C.1, IV.A.2 and IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

REASONS FOR DECISION

The Member pleaded guilty and acknowledged that her conduct as described in the Agreed Statement of Facts constitutes professional misconduct. As such, the Committee accepts the Member's guilty plea and the Agreed Statement of Facts.

The Member failed to adequately supervise the children in her care, exposing them to physical risk. Her behaviour, which falls short of the professional standards, has caused members of the public to question the professionalism of early childhood educators.

JOINT SUBMISSION ON PENALTY

Counsel for the College and the Member jointly submitted that the appropriate penalty would be as follows:

1. The Member shall be reprimanded in person by the Discipline Committee and the fact and nature of the reprimand shall be recorded on the College's Register.
2. The Registrar shall be directed to impose a term, condition or limitation on the Member's Certificate of Registration, to be recorded on the Register, requiring the Member, at her own expense, to participate in and successfully complete a course of

study in “Professional Supervision in Early Learning and Care”, as prescribed by and acceptable to the College, within six (6) months from the date of the Committee’s Order.

3. The Registrar shall be directed to suspend the Member's Certificate of Registration for a period of three (3) months, which suspension would commence 6 months from the date of the hearing, on April 15, 2013. However, should the member successfully complete the course of study prior to that date, the suspension shall be suspended and shall be remitted in full.
4. The results of the hearing shall be recorded on the Register.
5. The Discipline Committee's finding and Order shall be published, with the Member’s name, in full on the College's website and in summary in the College's publication, *Member Newsletter*.

Counsel for the College submitted that the proposed penalty [Exhibit 3(d)] ought to be accepted by the Committee as it serves the public interest. Publication with the Member’s name acts as a specific deterrent to the Member and a general deterrent to the membership at large. It promotes transparency and indicates that the College does not tolerate this kind of behaviour and will effectively discipline its members for professional misconduct.

Furthermore, an imposed course of study allows for the rehabilitation of the Member as a professional.

The Member submitted that she cares about her field and has always wanted to work with children. She stated that she hopes the Committee will give her a chance to grow.

PENALTY DECISION

The Committee accepts the joint submission on penalty and makes the following order as to penalty:

1. The Member is required to appear in person before the Discipline Committee, immediately following the hearing, to be reprimanded, and the fact and nature of the reprimand is to be recorded on the register.
2. The Registrar is directed to impose the following term, condition or limitation on the Member's Certificate of Registration, to be recorded on the register:
 - a. that the Member shall, at her own expense, participate in and successfully complete a course of study in "Professional Supervision in Early Learning and Care" that has been pre-approved by the Registrar, and provide proof of such completion to the Registrar no later than six (6) months from the date of the Discipline Committee's decision, being April 15, 2013.
3. The Registrar is directed to suspend the Member's Certificate of Registration for a period of three (3) months, which suspension would commence six (6) months from the date of the Discipline Committee's decision in this matter, on April 15, 2013. However, should the Member provide evidence, satisfactory to the Registrar of the College, that she has successfully completed the course of study prior to this date, the suspension shall be suspended and shall be remitted in full.
4. The Registrar is directed to record the results of this hearing on the register.
5. The Discipline Committee's finding and order (or a summary thereof) shall be published, with the Member's name, in the College's official publication, *Member Newsletter*, and the full decision shall be published with the Member's name on the College's website.

REASONS FOR PENALTY DECISION

The Committee concluded that the proposed penalty is fair and serves to protect the public interest. The reprimand—delivered publicly by the Member's peers—acts as a specific

deterrent to the Member and gives the Committee members an opportunity to express their distress over the Member's unprofessional behaviour.

The term, condition and limitation placed on the Member's Certificate of Registration also protect the public interest by requiring the Member to take steps to improve her practice. A course of study in "Professional Supervision in Early Learning and Care" will reinforce the importance of being vigilant while supervising children and will facilitate the Member's rehabilitation as an early childhood educator.

The imposition of a three-month suspension where the Member fails to successfully complete the course of study within six months of the Committee's decision reflects the serious nature of the incident and of the misconduct. It also holds the Member accountable to complying with terms, conditions and limitations placed on her Certificate of Registration.

The suspension will, however, be remitted in full if the Member successfully completes the course within the required timeline because the Committee recognizes that the Member was willing to acknowledge her misconduct and took full responsibility for her actions by agreeing to the facts and accepting a proposed penalty.

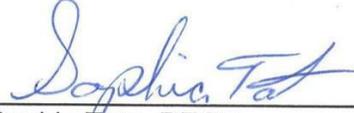
Finally, publication of the Committee's finding and order, with the Member's name, promotes transparency and acts as both a specific deterrent to the Member and a general deterrent to all members of the College.

In conclusion, the Committee is confident that the penalty serves the interests of the public and of the profession.

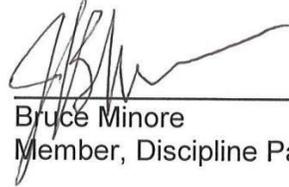
Date: October 15, 2012



Nici Cole, RECE
Chair, Discipline Panel



Sophia Tate, RECE
Member, Discipline Panel



Bruce Minore
Member, Discipline Panel