

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

Citation: College of Early Childhood Educators vs Tammy Uithoven,
2012 ONCECE 8
Date: 2012-11-05

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 Tammy Uithoven, RECE, a
member of the College of Early Childhood Educators.

PANEL: Barbara Brown, RECE, Chair
Roseanne Marinaro, RECE
Rosemary Sadlier

BETWEEN:)	
)	
COLLEGE OF EARLY CHILDHOOD EDUCATORS)	M. Jill Dougherty, WeirFoulds LLP, for College of Early Childhood Educators
- and -)	
)	
TAMMY UITHOVEN, RECE REGISTRATION # 17525)	Tammy Uithoven, RECE on her own behalf
)	
)	
)	David Leonard McCarthy Tétrault LLP, Independent Legal Counsel
)	
)	Heard: November 5, 2012

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the “Committee”) on November 5, 2012 at the College of Early Childhood Educators (the “College”) at Toronto.

A Notice of Hearing (Exhibit 1), dated August 7, 2012, was served on Tammy Uithoven, RECE (the “Member”), specifying the charges and requesting her attendance before the Discipline Committee of the College of Early Childhood Educators (the “Committee”) on September 12, 2012 to set date for a hearing. Counsel for the College submitted an Affidavit of Service sworn

by Samiyah Aziz, Hearings Coordinator (Exhibit 1), and sworn September 4, 2012, detailing confirmation that the Notice of Hearing was served on the Member. Attached to the Notice of Hearing and Affidavit of Service was a Consent dated August 28, 2012, and signed by College counsel and the Member, indicating that both parties consented to hold the hearing on November 5, 2012.

The Member was in attendance at the hearing electronically, via teleconference.

Counsel for the College tendered an affidavit signed on October 10, 2012 by Sue Corke, Registrar and Chief Executive Officer of the College of Early Childhood Educators (Exhibit 2), which outlined the current registration status of the Member and the 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 August 7, 2012, are as follows:

IT IS ALLEGED that **Tammy Uithoven, RECE** (the “**Member**”), is guilty of professional misconduct as defined in subsection 33(2) of the 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 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*;

- (f) she falsified a record relating to her professional responsibilities, contrary to Ontario Regulation 223/08, subsection 2(17);
- (g) 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 *Code of Ethics and Standards of Practice*;
- (h) 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 *Code of Ethics and Standards of Practice*;
- (i) she failed to build a climate of trust, honesty and respect in the workplace, contrary to Ontario Regulation 223/08, subsection 2(8) and Standard IV.C.2 of the College's Standards of Practice; and
- (j) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22) and/or engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood educators, contrary to Standard IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

AGREED STATEMENT OF FACTS

Counsel for the College advised the Committee that an agreement had been reached on the facts and introduced an Agreed Statement of Facts (Exhibit 4), signed October 31, 2012, which provides as follows:

1. Tammy Uithoven is, and was at all times relevant to these allegations contained in the Notice of Hearing, a registered member of the College of Early Childhood Educators (the "**College**").
2. At all times relevant to these allegations, Ms. Uithoven was employed as an early childhood educator, in the position of Supervisor at Schoolhouse Playcare Centres of Durham (the "**Centre**").
3. As Supervisor, Ms. Uithoven's responsibilities included being familiar with and adhering to all necessary policies and regulations, maintaining all records in an organized and accurate manner and orienting new staff to ensure that all staff were familiar with necessary policies, procedures and guidelines.
4. As Supervisor of the Centre, Ms. Uithoven also had responsibilities relating to fire safety, including responsibility for the holding of fire drills. The Centre's Fire Safety Plan and the regulations under the *Day Nurseries Act* applicable to the Centre required that fire drills be conducted at the Centre at least once a month and that a written record be kept of all fire drills.

5. In November of 2011, the Ministry of Children and Youth Services conducted a licensing inspection at the Centre which disclosed discrepancies between the Centre's records and information supplied by certain staff. In particular, the inspection revealed that the Centre's records indicated that monthly fire drills had taken place while staff indicated that they had never participated in fire drills.
6. Ms. Uithoven admits that no fire drills were conducted from September of 2009 until November of 2011 and that she had filled out the Centre's fire drill records to indicate that fire drills had been conducted during that period.
7. Further investigation revealed that Ms. Uithoven had requested two employees to record children with subsidized day care spots at the Centre as being present on days when they were absent.
8. On November 28, 2011, the Centre suspended the employment of Ms. Uithoven without pay.
9. Ms. Uithoven resigned her position as Supervisor of the Centre following that investigation.
10. The parties agree that these facts are substantially accurate.

GUILTY PLEA

11. 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 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*;
 - she falsified a record relating to her professional responsibilities, contrary to Ontario Regulation 223/08, subsection 2(17);

- 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 *Code of Ethics and 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 *Code of Ethics and Standards of Practice*;
 - she failed to build a climate of trust, honesty and respect in the workplace, contrary to Ontario Regulation 223/08, subsection 2(8) and Standard IV.C.2 of the College's *Code of Ethics and Standards of Practice*; and
 - she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22) and/or engaged in conduct which could reasonably be perceived as reflecting negatively on the profession of early childhood educators contrary to Standard IV.E.2 of the College's *Code of Ethics and Standards of Practice*.
12. The Member understands the nature of the allegations that have been made against her and that by voluntarily admitting to these allegations, she waives her right to require the College to otherwise prove the case against her.
 13. The Member understands that the Discipline Committee can accept that the facts herein constitute professional misconduct.
 14. 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.
 15. The Member understands that any agreement between her and the College does not bind the Discipline Committee.
 16. The Member acknowledges that she has had the opportunity to receive independent legal advice but has declined to do so.

Counsel for the College also submitted a Plea Inquiry (Exhibit 3) signed by the Member on October 30, 2012 indicating that:

- a) she understood the nature of the allegations that have been made against her;
- b) she understood that by admitting to the allegations, she is waiving her right to require the College to prove the case against her and the right to have a hearing;
- c) she voluntarily decided to admit to the allegations against her;

- d) she understood that depending on the order made by the Panel, the Panel's decision and a summary of its reasons may be published in the College's *Member Newsletter/Bulletin des membres*, including reference to her name; and
- e) she understood that any agreement between counsel for the College and her counsel with respect to the order proposed does not bind the Panel.

DECISION

Having considered the Exhibits filed, and based on the Agreed Statement of Facts and guilty plea, and the submissions made by College counsel, the Discipline Committee finds that the facts support a finding of professional misconduct. In particular, the Committee finds that Tammy Uithoven committed acts of professional misconduct as alleged, more particularly breaches of Ontario Regulation 223/08, section 2, subsections (2), (8), (10), (17), (19), (22) and Standards III.A.1, IV.A.2, IV.C.1, IV.C.2 and IV.E.2 of the College's *Code of Ethics and Standards of Practice*.

REASONS FOR DECISION

Each of the allegations in the Notice of Hearing can be traced back to an action or actions listed in the Agreed Statement of Facts. The Member pleaded guilty and acknowledged that her conduct as described in the statement constitutes professional misconduct. As such, the Committee accepts the Member's guilty plea and the Agreed Statement of Facts.

The Member was not diligent in observing mandatory policies and procedures related to her practice and failed to maintain a safe environment for the children in her care. In a profession built on trust, the Member acted deceitfully by falsifying records and asking her colleagues to do the same.

JOINT SUBMISSION ON PENALTY

College counsel and the Member jointly submitted a Proposed Penalty (Exhibit 5), signed by the Member on October 31, 2012, which provides 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 impose a term, condition or limitation on the Member's Certificate of Registration, to be recorded on the Register, requiring the Member to:
 - a) provide the decision of the Discipline Committee in this matter to the senior administrator at her current place of employment as well as the teacher with whom she shares a classroom and provide evidence of this (satisfactory to the Registrar or her designate) within 30 days of receiving the written decision; and
 - b) if the Member changes her place of employment as an RECE within six (6) months from the date of the Committee's Order, forthwith: advise the Registrar of her new place of employment, provide the decision of the Discipline Committee to such person(s) at that new place of employment as the Registrar may direct and provide evidence of this satisfactory to the Registrar or her designate.
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 Committee should accept the Proposed Penalty as it protects the public interest and is proportionate to the gravity of the misconduct. College counsel stated that publication with the Member's name acts as a specific deterrent to the Member and a general deterrent to other early childhood educators, adding that a course of study will assist in rehabilitating the Member.

PENALTY DECISION

After considering the joint submission made by College counsel and the Member, the Committee makes the following order as to penalty:

1. The Member is to be reprimanded in person by the Discipline Committee, and the fact of the reprimand is to be recorded on the public register.
2. The Registrar is directed to impose a term, condition or limitation on the Member's Certificate of Registration, to be recorded on the public 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 months from the date of the Committee's order.
3. The Registrar is directed to impose a term, condition or limitation on the Member's Certificate of Registration, to be recorded on the public register, requiring the Member to:
 - a. provide the decision of the Discipline Committee in this matter to the senior administrator at her current place of employment as well as the teacher with whom she shares a classroom and provide evidence of this (satisfactory to the Registrar or her designate) within 30 days of receiving the written decision; and
 - b. if the Member changes her place of employment as an RECE within six months from the date of the Committee's order, forthwith: advise the Registrar of her new place of employment, provide the decision of the Discipline Committee to such person(s) at that new place of employment as the Registrar may direct, and provide evidence of this satisfactory to the Registrar or her designate.
4. The Registrar is directed to record the results of this hearing on the public register.

5. The Discipline Committee's finding, order and reprimand shall be published, with the Member's name, in full on the College's website, and a summary of the Committee's decision will be published in the College's publication, *Member Newsletter*.

REASONS FOR PENALTY DECISION

The Committee concluded that the joint submission on penalty is reasonable and serves to protect the public interest.

The reprimand is proportionate to the gravity of the misconduct and acts as a specific deterrent to the Member. As the reprimand is published on the College's website, it will also serve to deter current and future early childhood educators from engaging in unethical conduct.

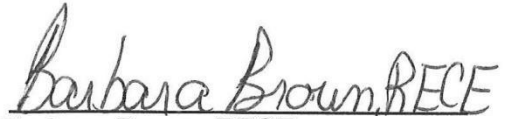
The imposed course of study in "Professional Supervision in Early Learning and Care" will allow for the Member's rehabilitation and will remind her of the importance of professionalism in the early childhood education sector.

Furthermore, the penalty protects public interest as it requires the Member to provide her employer and colleague with the Committee's decision in this matter. This condition protects those working alongside the Member and ensures that the Member will take ownership of her actions at her current place of employment.

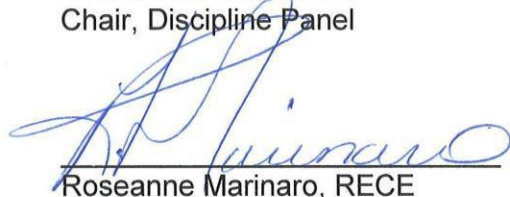
Transparency and public awareness are heightened by publication of the decision on the register, on the College website and in the College's *Member Newsletter*. Publication with the Member's name acts as a specific deterrent to the Member as well as a general deterrent to other members of the College. It assures the public that registered early childhood educators are held to very high ethical and professional standards and will be effectively disciplined for professional misconduct of this nature.

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

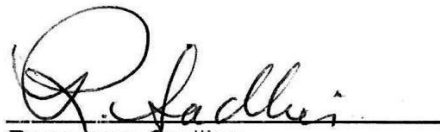
Date: November 5, 2012

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Barbara Brown, RECE
Chair, Discipline Panel

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Roseanne Marinaro, RECE
Member, Discipline Panel

Handwritten signature of Rosemary Sadlier in black ink, written over a horizontal line.

Rosemary Sadlier
Member, Discipline Panel