

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

Citation: College of Early Childhood Educators vs Sherrel Pucci,
2012 ONCECE 2
Date: 2012-04-19

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 Sherrel Pucci,
RECE, a member of the College of Early Childhood Educators.

PANEL: Valerie Sterling, RECE,
Chair Rosanne Marinaro,
RECE Rosemary Sadlier

BETWEEN:)	
)	
COLLEGE OF EARLY)	M. Jill Dougherty,
CHILDHOOD EDUCATORS)	WeirFoulds LLP,
)	for College of Early Childhood Educators
-and-)	
)	
SHERREL PUCCI,)	Sherrel Pucci, RECE
RECE)	on her own behalf
REGISTRATION#)	
01389)	
)	David Leonard,
)	McCarthy Tetrault LLP,
)	Independent Legal Counsel
)	
)	Heard: April19, 2012

REASONS FOR DECISION, DECISION AND ORDER(S)

This matter came on for hearing before a panel of the Discipline Committee (the "Committee") on April 19, 2012 at the College of Early Childhood Educators (the "College") at Toronto.

A Notice of Hearing (Exhibit 1), dated April 5, 2012, was served on Sherrel Pucci, RECE (the "Member"), requesting her attendance before the Discipline Committee of the College of Early Childhood Educators (the "Committee") on April 19, 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), and sworn April 18, 2012 detailing confirmation that the Notice of Hearing was served on the Member.

Counsel for the College submitted a Consent (Exhibit 2), dated April 5, 2012 and signed by College counsel and the Member, which indicated that both parties consented to an order of the Committee that the hearing in this matter be held electronically on April 19, 2012 and confirmed that holding an electronic hearing is not likely to cause either party significant prejudice. In addition, College counsel submitted an Order of the Discipline Committee (Exhibit 3), dated April 11, 2012, in which the Committee ordered that the hearing in this matter be held electronically. As such, the Member was in attendance at the hearing electronically, via teleconference.

Counsel for the College also submitted an Affidavit of Sue Corke, Registrar and Chief Executive Officer (Exhibit 4), sworn on April 12, 2012, which outlined the current registration status of the Member and any historical changes that may have occurred since becoming a member of the College.

THE ALLEGATIONS

The allegations against the Member, as stated in the Notice of Hearing dated April 5, 2012, are as follows:

IT IS ALLEGED that Sherrel Pucci, RECE (the "Member"), is guilty of professional misconduct as defined in subsection 33(2) of the Early Childhood Educators Act, 2007 (the "Act"), in that:

- (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8);
- (b) 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);
- (c) 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);
- (d) she contravened a law, the contravention of which is relevant to the Member's suitability to hold a certificate of registration, contrary to Ontario Regulation 223/08, subsection 2(20); and
- (e) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

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 5), which provides as follows:

1. Sherrel Pucci, RECE (the "Member") is and was at all times relevant to this matter a Registered Early Childhood Educator and a member of the College of Early Childhood Educators (the "College").
2. For approximately 16 years, [REDACTED] g on March 31, 2009, the Member was employed [REDACTED] (the "Centre") located at [REDACTED] as the Director of [REDACTED].

3. Between May 26, 2008 and March 19, 2009, the Member's employment responsibilities at the Centre included handling the monthly bank statements, forwarding them to the Centre's bookkeeper and having access to the Centre's cheques.
4. During this time, the Member issued to herself cheques from the general account of the Centre, totalling approximately \$15,000.00, which cheques were deposited by the Member into her personal bank account. The Member also altered the Centre's monthly bank statements, which the Member forwarded to the Centre's bookkeeper, in order to hide the withdrawal of the funds.
5. On March 17, 2009, the Member advised a member of the Centre's Board of Directors that an amount was found missing during the Centre's audit, and that a fictitious person had admitted to taking the money and has since repaid the amount.
6. On March 31, 2009, the Member advised the Centre's Board of Directors that it was in fact herself who had taken the money and confirmed that she had already returned the money.
7. On December 10, 2010, the Member was charged with one count of fraud over \$5,000.00, one count of theft over \$5,000.00, one count of uttering a forged document, one count of forging a document and one count of breach of trust contrary to the Criminal Code, R.S.C., 1985, c. C-46.
8. On May 16, 2011, the Member pled guilty to and was convicted of one count of breach of trust in Thunder Bay Criminal Court, as set out in the certified copy of the information regarding that matter, a copy of which is attached hereto as Schedule "A".
9. The member received a six-month conditional sentence, was required to pay a \$100.00 victim surcharge and also made restitution in the amount of \$5,000.00 to the Centre, to cover the additional costs incurred by the Centre in relation to its auditor.

The Member advised the Committee that, as part of her sentence, she had completed 40-hours of community service .

GUILTY PLEA

10. The Member admits that by reason of the facts set out in paragraphs 1 to 9 of this Agreed Statement of Facts, she engaged in professional misconduct as defined in subsection 33(2) of the Act and as alleged in the Notice of Hearing, in that:
 - (a) she failed to maintain the standards of the profession, contrary to Ontario Regulation 223/08, subsection 2(8);
 - (b) 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);

- (c) 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);
- (d) she contravened a law, the contravention of which is relevant to the Member's suitability to hold a certificate of registration, contrary to Ontario Regulation 223/08, subsection 2(20); and
- (e) she conducted herself in a manner that is unbecoming a member, contrary to Ontario Regulation 223/08, subsection 2(22).

The Member stated that:

- (a) she understood fully the nature of the allegations against her;
- (b) she understood that by admitting to the allegations, she was waiving the right to require the College to prove the case against her and the right to have a hearing;
- (c) her admission to the allegations was made voluntarily;
- (d) she understood that depending on the penalty ordered by the Discipline Committee, that the Committee's decision and a summary of its reasons may be published in the *Member Newsletter*, including reference to her name; and
- (e) she understood that any agreement between the College and her with respect to the penalty proposed does not bind the Discipline Committee.

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 Sherrel Pucci, RECE, committed acts of professional misconduct as alleged, more particularly breaches of the *Early Childhood Educators Act, 2007*, paragraphs 33(2)(a) and (c), and Ontario Regulation 223/08, section 2, subsections (8), (10), (19), (20) and (22).

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 accepted the Member's guilty plea and the Agreed Statement of Facts.

The Member held a position of trust, leadership and responsibility in the Centre. Her failure to maintain the standards of the profession and to act dutifully has caused members of the public to question the integrity of the profession. The Member's behaviour as described in the Agreed Statement of Facts is conduct that is disgraceful, dishonourable, unprofessional and unbecoming a member of the College. By engaging in this conduct, the Member has failed to comply with the Act and Ontario Regulation 223/08 made under the Act.

In addition, the Member's criminal conviction for breach of trust reflects upon her suitability to hold a Certificate of Registration with the College.

JOINT SUBMISSION ON PENALTY

Counsel for the College and the Member jointly submitted that the appropriate penalty to be imposed by the Discipline Committee in this matter would be that:

1. The Member be reprimanded and the fact of the reprimand be recorded on the register.
2. The Registrar be directed to suspend the Member's Certificate of Registration for a period of six (6) months, commencing on the date of the Discipline Committee's decision in this matter, the final three (3) months of which suspension shall be suspended and shall not be imposed if the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed on the Member's Certificate of Registration, pursuant to paragraph 3 below.
3. The Registrar be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the register,
 - a. requiring the Member to, at her own expense, participate in and

successfully complete an ethics training program, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within six (6) months from the date of the Discipline Committee's decision herein, failing which the Member shall serve the final three (3) months of her suspension (in accordance with paragraph 1 above), commencing six (6) months from the date of the Discipline Committee's decision herein;

4. The Discipline Committee's finding and order (or a summary thereof) be published, with the Member's name, in the College's official publication and on the College's website, and the results of the hearing be recorded on the register.

Counsel for the College submitted that the proposed penalty (Exhibit 6) ought to be accepted by the Discipline Committee as it "protects the public interest by serving the functions of general and specific deterrence, is proportionate to the misconduct as found and is consistent with the penalties imposed by the Discipline Committees of other self-regulating professions in analogous cases."

College counsel also submitted that the proposed penalty is appropriate given the aggravating and mitigating factors. The aggravating factors being that the conduct is a serious offence, was done in the scope of the Member's practice and drew a criminal conviction for breach of trust. The mitigating factors refer to the fact that the Member voluntarily made restitution, pled guilty in court and received a conditional sentence, completed 40-hours of community service, paid costs incurred for the auditor's investigation to the Centre, and immediately declared to the College that she was ready to agree to the facts of the conduct and penalty.

The Member submitted that she was seeing a counselor during the time of the conduct described in the Agreed Statement of Facts.

PENALTY DECISION

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

as to penalty:

1. The member is to be reprimanded by the Discipline Committee immediately after the hearing, and the Registrar is directed to record the fact of the reprimand on the register.
2. The Registrar be directed to suspend the Member's Certificate of Registration for a period of six (6) months, commencing on the date of the Discipline Committee's decision in this matter (being April 19, 2012), the final three (3) months of which suspension shall be suspended and shall not be imposed if the Member provides evidence, satisfactory to the Registrar of the College, of compliance with the terms and conditions imposed on the Member's Certificate of Registration, pursuant to paragraph 3 below.
3. The Registrar be directed to impose a term, condition and limitation on the Member's Certificate of Registration, to be recorded on the register,
 - (a) requiring the Member to, at her own expense, participate in and successfully complete an ethics training program, as prescribed by and acceptable to the College, and provide proof of such completion to the Registrar within six (6) months from the date of the Discipline Committee's decision herein, failing which the Member shall serve the final three (3) months of the suspension (in accordance with paragraph 2 above), commencing six (6) months from the date of the Discipline Committee's decision herein;
4. 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 on the College's website, and the results of the

hearing shall be recorded on the register.

REASONS FOR PENALTY DECISION

The Committee concluded that the proposed penalty is reasonable and serves and protects the public interest. The Member has co-operated with the College, and by agreeing to the facts and a proposed penalty, has accepted responsibility for her actions.

The reprimand by her peers serves as a specific deterrent to the Member. This censure on behalf of the profession and the public reinforces to the Member that her conduct was unacceptable. The fact, recorded on the register, that the Member received a reprimand and was found guilty of professional misconduct serves as an additional deterrent to the Member.

The suspension of and the imposition of the specified term, condition and limitation on her Certificate of Registration will not only serve as a deterrent to the Member, but will also be rehabilitative to her. The Committee agreed that the final three months of the suspension

on the Member's Certificate of Registration will be suspended and not imposed if the Member successfully participates in and completes an ethics training program within six months of the Committee's decision. The ethics training program will help the Member to understand the motivation for her misconduct, the impact it has had and why she should not engage in


similar behaviour in the future. Pre-approval of the ethics training program by the Registrar and the Member's responsibility to report completion back to the Registrar supports transparency and serves the public interest.


Publication of the findings and order of the Committee with the name of the Member


serves as a further deterrent to the Member and a general deterrent to members of the profession, sending a message that engaging in such misconduct is not acceptable and will have serious consequences. Members have a professional and moral duty to set a positive example of responsible behaviour.

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

Date: April 19, 2012


Valerie Sterling, RECE
Chair, Discipline Panel


Rosanne Marinaro, RECE
Member, Discipline Panel


Rosemary Sadlier
Member, Discipline Panel