

COMMUNITY CARE AND ASSISTED LIVING APPEAL BOARD

*Community Care and Assisted Living Act,
SBC 2002, c. 75*

APPELLANT: MT (Certificate Applicant)
RESPONDENT: Director, Early Childhood Educator Registry
PANEL: Gordon Armour, Chair
Deborah Harden, Member
Mary-Ann Pfeifer, Member

DECISION

Introduction

[1] The appellant appeals a decision of the respondent Director of the Early Childhood Educator Registry ("ECE Director") refusing to grant her application dated March 6, 2009, for an Early Childhood Educator ("ECE") 1 year certificate under the *Community Care and Assisted Living Act* ("CCALA"). Instead, the ECE Director subsequently issued the appellant an ECE Assistant certificate.

Background

[2] Section 8(1) of the *CCALA* and sections 25 and 28 of the *Child Care Licensing Regulation*, BC Reg. 332/2007 ("*Regulation*"), govern the issuance of early childhood educator certificates. They read as follows:

CCALA

8 (1) A certificate may be issued to a person in accordance with the regulations stating that the person has the qualifications required by the regulations for certification as an educator of children, or as an educator in the manner specified in the certificate respecting children, at a community care facility.

Child Care Licensing Regulation

25 The director may issue an early childhood educator certificate to an applicant who does all of the following:

- (a) submits an application to the director;
- (b) has successfully completed a basic early childhood education training program through an educational institution in item I of Schedule D;
- (c) provides a written reference from an educator stating that the person is personally satisfied, from his or her own observations of the applicant, that the applicant is competent
 - (i) in the areas of child development, guidance, health and safety and nutrition,
 - (ii) to develop and implement an early childhood education curriculum, and
 - (ii) with respect to the fostering of positive relationships with children under the

care of the applicant, the families of children and with co-workers;

(d) provides proof of

(i) having completed at least 500 hours of work experience relevant to early childhood education, or

(ii) sufficient child care experience that the director is satisfied that the applicant has become competent in the matters set out in paragraph (c);

(e) demonstrates to the satisfaction of the director that the applicant

(i) is of good character,

(ii) has the personality, ability and temperament necessary to manage or work with children, and

(iv) has the training and experience and demonstrates the skills necessary to be an educator.

28 (1) Despite section 25 to 27 [requirements for certificates], the director may exempt an applicant for a certificate from a requirement under any of those sections to complete a program or course if

(a) the applicant has completed a program or course

(i) in qualifying for another profession, or

(ii) through an educational institution that is not listed in the applicable provision of Schedule D, and

(b) the director considers the completed program or course to be at least equivalent to the required program or course.

(2) For the purposes of subsection (1), the director may determine that a program or course is not equivalent to a required program or course solely on the basis that the institution through which the applicant completed the program or course is not approved by a provincial, state, national or other government body.

[3] In a decision dated August 8, 2009, the ECE Director found that the Appellant's out-of-country course work did not satisfy the training program requirement in s. 25(b) of the *Regulation* as it was not completed through an educational institution listed in item 1 of Schedule D of the *Regulation*.

[4] The ECE Director found that the Appellant's course work was not equivalent, under s. 28 of the *Regulation*, to the training program requirement in s. 25(b), for the following reasons:

(i) there is no confirmation that the province, state, national or other government body, approves the training institution (see s. 28(2) of the *Regulation*);

(ii) no, or only partial, equivalency could be granted in the academic areas completed by the Appellant because the course content and instructional hours did not meet the minimum standards outlined in the BC Child Care Occupational Competencies and Linking Competencies documents (see s. 28(1)(b) of the *Regulation*).

[5] The ECE Director also found that the Appellant would have to complete at least one additional practicum or provide confirmation that she completed early childhood practicum placements to fully meet the relevant work experience requirement under s. 25(d) of the *Regulation*.

[6] Lastly, the ECE Director referred to s. 31 of the *Regulation*. Section 31(1) authorizes the issuance of a one-year ECE certificate for an applicant who meets all the requirements of s. 25 of the *Regulation* except subsections (c) and (d). This provision therefore does not assist an applicant who does not meet the training program requirement in s. 25(b) or qualify for exemption from that requirement under s.28.

Issues and Arguments

[7] On September 2, 2009, the Community Care and Assisted Living Appeal Board ("Board") received an undated letter from the Appellant stating that she wished to appeal a decision denying her application for ECE certification. The Board informed the Appellant on September 2, 2009, that she would have to provide further information about the decision she wished to appeal, notably its date, when the Appellant was notified of it, who made the decision and a copy of it, no later than September 16, 2009. The Board subsequently received additional documents from the Appellant, reviewed them and found the notice of appeal to be complete.

[8] On November 12, 2009, the Board received a letter from the Appellant stating why she was late in responding to the Board's request for her to file a statement of points and any supporting documents. With that letter, the Appellant provided additional documents in support of her appeal. On December 2, 2009, the Board received yet further documents from the Appellant, along with a hand written note, which stated that some of the documents had been issued under her maiden name.

[9] On December 2, 2009, the Appellant also submitted documents identifying the completion of 60 hours of work at a daycare facility and a certificate of completion for a program of Educator of Childcare Institution at the Pervomayski Educational Center. The certificate for the program of Educator of Childcare, for what appears to be a 7 to 8 month course, was submitted in Russian with a translation provided. There was no indication in the translation of where the educational institute was located in Belaruss. This appears to be new information that was not before the ECE Director when the decision under appeal was made.

[10] Ultimately, the Appellant did not file a statement of points in the conventional manner; however the Board was able to adequately glean her position from the submissions she did provide.

[11] The Appellant maintains she has completed a five-year undergraduate program in teaching Belarussian philosophy, and culture and a one-year undergraduate-retraining program in teaching English at the primary and secondary level at the Minsk State Teacher's Training Institute. She is unable to provide a detailed description of the different courses at the Belarussian State Pedagogical University because she says that information was not forthcoming when she requested it from that institution.

[12] On December 8, 2009, the ECE Director filed a statement of points requesting the Board to uphold the decision to deny ECE certification to the Appellant.

[13] The ECE Director's statement of points provided clarification regarding the assessment of the Appellant's credentials, outlining the process by which the ECE Registry determines whether training is equivalent, where additional information from the training institution at which an applicant attended may be required, and additional research by the ECE Registry.

[14] The ECE Director explained that as the Minsk State Teacher's Institute is not an educational institution listed in item 1 of Schedule D of the *Regulation*, an assessment of equivalency was completed.

[15] The primary documents used by the ECE Registry to assess equivalency in the Appellant's instance were:

- The International Credential Evaluation Service (ICES) comprehensive report confirmed the name of the credential, admissions requirements, recognition of the training institute, where training was completed and the name of the training institution. It also provided a listing of the courses completed, the credits granted for each course and the grades assigned. The ICES credential evaluation report identified training to provide for a Qualification of Secondary Teacher of the English and German Languages. Without course outlines for the completed courses, ICES could not verify ECE training program equivalency, noting inadequate course subject matter, hours and unrecognized institute.
- The Program Confirmation Form completed by the Belarussian State Pedagogical University indicated that the training completed was fully equivalent to the academic requirements for ECE registration in British Columbia, but without providing any verifying course content information.

[16] The ECE Director found that the ICES report could not validate the information provided in the institution's Program Confirmation Form in four of the five academic areas. The ECE Director also found that, based on the ICES report, the Appellant completed a variety of practicum, however it could not be confirmed that she had completed any in an early childhood setting with children 6 years of age or younger.

[17] The ECE Director encouraged the Appellant to obtain outlines for the out-of-country courses she completed. The Appellant was unable to obtain that information from the institution. Without that information, the Program Confirmation Form could not be verified through the ICES independent credential assessment process and the ECE Registry was unable to grant equivalency.

Analysis

[18] Section 36 of the *Administrative Tribunals Act*, SBC 2004, c. 45, applies to the Board and is significant because it permits the Board to hear appeals by any combination of written, electronic and oral hearings. In a letter dated November 13, 2009, the Board informed the parties that, subject to any objections they made, the Board considered this appeal to be suitable for a decision based on the Appeal Record and the parties written submissions. No objections were received. The Board is satisfied that there are no questions of credibility or other circumstances favouring an oral hearing, and this appeal is appropriately determined by a written hearing.

[19] The Board considered the following relevant facts and evidence:

- The Appellant's résumé and correspondence from the Director State Educational Establishment Sanatorium Kindergarten No. 366 indicating her work record as a tutor for children studying ESL in excess of 500 hours.
- A Program Confirmation Form, submitted by the Vice Rector of the Belarussian State Pedagogical University, indicating equivalency with the training program requirements in British Columbia, but without course outline or other comparably detailed information to verify or demonstrate that statement
- The Credential Evaluation Report, dated May 20, 2009, prepared by the ICES at the request of the Appellant, indicating that credential equivalency could not be verified on the available information.
- The Appellant's new information about 60 hours work experience at a daycare facility and a certificate of completion for a training program at the Pervomayski Education Center.

[20] The ICES evaluation of the Appellant's transcript from the Minsk State Teacher's Training Institute (which does not support the equivalency of her training under s. 28 of the *Regulation*) cannot be reconciled with the Program Confirmation Form from the Belarussian State Pedagogical University (which

does support equivalency). The ICES is a recognized independent service that the government uses to assist in examining out of country credentials. Its credential evaluation report provided a list of the courses completed by the Appellant, a break down of the Appellant's transcript, plus its analysis of the course equivalency in B.C. On the other hand, the Program Confirmation Form submitted by the Belarussian State Pedagogical University is not supported by course outlines or like details. The ECE Director found that the Comprehensive Report completed by the ICES could not validate the information provided in the Program Confirmation, except for partial equivalency in 2 of 5 areas.

[21] Under s. 29(11) of the *CCALA*, the Appellant bears the burden of proving that the ECE Director's decision to refuse her ECE registration was not justified. The Board finds that the ECE Director was justified in preferring the independence, reliability and thoroughness of the information in the ICES credential evaluation report. The conclusion that the Appellant's out-of-country educational credentials do not meet the requirement for completion of a training program at an approved educational institution in s. 25(b) of the *Regulation* or equivalency to that under s. 28 of the *Regulation*, with the exception of possibly two partial course equivalents, is reasonable. The Board therefore confirms the ECE Director's refusal to grant her application for an ECE certificate. The Board also finds that the ECE Director's decision to require further work experience hours under s. 25(d) to be justified.

[22] The Board supports the ECE Registry's encouragement of the Appellant to consider the following:

- contacting an approved training institution in British Columbia and completing outstanding course work;
- contacting Douglas College or Northern Lights College to discuss a Prior Learning Assessment; and
- obtaining an assessment of the new information about her out-of-country Educator of Childcare training.

[23] The precise basis upon which the ECE Director granted the Appellant an ECE assistant certificate is not discernible on the materials before the Board and forms no part of our decision on this appeal.

Conclusion

[24] For the reasons provided above, the Board confirms the ECE Director's decision to refuse to grant full ECE certification to the Appellant. Accordingly, the appeal is dismissed.

March 1, 2010

Gordon Armour, Chair

Deborah Harden, Member

Mary-Ann Pfeifer, Member