



Community Care and Assisted Living Appeal Board

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DECISION NO. 2011-CCA-003 (a)

In the matter of an appeal under section 29 of the *Community Care and Assisted Living Act*, S.B.C. 2002, c.75.

BETWEEN: EK (Certificate Applicant) **APPELLANT**

AND: Director, Early Childhood Educator Registry **RESPONDENT**

BEFORE: A Panel of the Community Care and Assisted Living Appeal Board
Gordon Armour, Panel Chair
Paula Barnsley, Member
Wendy Cooper, Member

DATE: October 20, 2011

PLACE: Victoria, BC

APPEARING: For the Appellant: Self-represented
For the Respondent: Self-represented

APPEAL

[1] The Appellant appeals a reconsideration decision of the Respondent, the Director of the Early Childhood Educator Registry ("Director") upholding her earlier decision to deny her application for an Early Childhood Educator ("ECE") 5 year certificate under the *Community Care and Assisted Living Act* ("Act").

ISSUE

[2] The issue is whether the education that the Appellant completed in Slovakia is equivalent to the requirements, set out in section 25 of the Child Care Licensing Regulation ("Regulation"), for licensing as an Early Childhood Educator in British Columbia.

BACKGROUND

[3] The ECE Registry ("Registry") is responsible for the certification of Early Childhood Educators and Assistants in British Columbia. The legislative provisions relevant to this decision are set out in Appendix A.

[4] In June 1987, the Appellant completed a 4 year program at the Klement Gottwald Secondary Pedagogical School of Presov ("Pedagogical School") in what was then Czechoslovakia. Her successful completion of this program qualified her to teach in kindergarten. The entry requirement for this program was eight years of primary education and an entrance examination. Simply passing the exam did not guarantee admission. Only those with the highest marks on the exam gained entrance to this competitive program. After she completed her program at the Pedagogical School, the Appellant completed a 5 year undergraduate program in pedagogy, specializing in pre-school education, at Pavol Josef Safarik University ("PJS University") in Kosice, Slovakia. The credential she earned from this university in 1994 is translated as "Diploma – Title of Master". In Slovakia the Appellant worked for 11 years in full day pre-school kindergarten.

[5] The Appellant immigrated to Canada. She waited some time before resuming her career in early childhood education because she wanted to improve her English language fluency.

[6] The Appellant started the process of applying for an ECE licence in early 2010. She submitted documents to the ECE Director that included her degree from PJS University and written confirmation of 520 hours of work experience at the Daisy Academy – Montessori Preschool & Kindergarten in Vancouver B. C. She was aware that the Registry policy indicated post-secondary training, and she felt that her 5 years of training at PJS University exceeded the educational requirements for a 5 year ECE licence. Because the Appellant's childcare training was acquired outside of B.C., the Registry was required to evaluate the training for equivalency to B.C. requirements. The Appellant was offered three evaluation options and choose to have an assessment done by the International Credential Evaluation Service (ICES). ICES forwarded its evaluation of the Appellant's training at PJS University on November 16, 2010.

[7] In a letter dated January 24, 2011, the ECE Director found that the Appellant's course work at PJS University did not satisfy the academic requirements for an ECE licence. However, she did meet the requirements for an Early Childhood Educator Assistant licence. This letter states that the Appellant had applied "to become a 1 year Early Childhood Educator", when in fact her application shows she applied for "Early Childhood Educator (ECE) 5 years". The letter enclosed an "Assessment Early Childhood Educator Certification" that had someone else's name on it.

[8] On January 27, 2011 the Registry sent the Appellant an "Assessment Early Childhood Educator Certification" in her own name. This Assessment shows that she had been granted equivalency for only one of five academic requirements for a BC ECE certificate, and one of two "other requirements". The academic requirement she met was Child Growth and Development. She was given partial equivalency for two academic requirements: ECE Program Development, Curriculum and Foundations, and Interpersonal Skills / Community Relations / Interacting with Families. She received no equivalency for Health, Safety and Nutrition (30 hours required) or for Practicum (425 hours required). Of the two "Other Requirements", the letter indicated that the Appellant met the character reference requirement, but not the 500 hours of work experience.

[9] On February 10, 2011, the Appellant sent a request for reconsideration via email to the Registry. In her request for reconsideration, the Appellant submitted a different set of documents from the first application, all relating to her training at the Pedagogical School.

[10] On March 31, 2011, the Registry received from the Pedagogical School a "Confirmation of Program Completion". This document indicates the number of hours completed in the program for each of the five areas required for an ECE licence in BC, and shows that the Appellant completed 510 practicum hours in this program.

[11] On April 20, 2011, the Registry received from the Ministry of Education, Science, Research and Sports of Slovak Republic a document confirming the Appellant's credentials from the Pedagogical School and PJS University. This document, dated April 6, 2011, indicates that the training received by the Appellant provides for individual categories of pedagogical workers and professional employees to perform the following regulated professions:

- teacher in kindergarten (age 3 -7 years);
- teacher of subject: pre-school pedagogy at state, private or church secondary school age category 14-19 years;
- educator in school clubs of children.

[12] On May 16, 2011, the Registry received an ICES Report regarding the Appellant's training at the Pedagogical School. The Report gives no converted credits for any of the courses in the program. The Report concludes that the program the Appellant completed at the Pedagogical School "is considered generally equivalent to the completion of Grade 12 (High School Completion – career option) at a recognized secondary school in British Columbia and elsewhere in Canada." This conclusion is based on the fact that completion of the program at the Pedagogical School requires 12 years of study (8 years at the primary level and 4 years at the secondary level), and completion of Grade 12 in British Columbia or elsewhere in Canada normally requires 12 years of study at the primary level and secondary level. There is no assessment of the content of the Pedagogical School program, or recognition that Slovakia has (or had when the Appellant attended school) a different structure for training early childhood educators than the British Columbia system.

[13] In a letter dated July 14, 2011, the Registry informed the Appellant that, based on a review of the information submitted between February and May 2011, she did not meet the requirements for licensing as an Early Childhood Educator in BC as the documents reviewed showed the following gaps:

- [The Pedagogical School] is comparable to Grade 12 High School Completion - career option in Canada.
- The reports received from [the Pedagogical School] are not pertinent to this reconsideration in view of the fact that High School education is not considered training in Early Childhood Education.
- British Columbia regulations are not bound by other countries' acknowledgement of documents on education. The translated document

confirmation from the Ministry of Education, Science, Research and Sports of Slovak Republic did not provide information that is relevant to licensure of Early Childhood Educators in British Columbia.”

[14] The reconsideration letter outlined the legislative requirements for certification and the Registry’s policies and procedures for determining equivalency, suggested an option to meet academic requirements, and advised the Appellant of her right to appeal, based on section 29(2)(d) of the Act.

[15] The reconsideration decision did not reference the documents that the Appellant submitted on her original application, and apparently these were not considered. Thus the original decision was based on one set of documents and the reconsideration on another. In other words, the Appellant’s complete education in early childhood was not considered as a whole in the decision under appeal.

[16] On August 11, 2011, the Community Care and Assisted Living Appeal Board received a letter from the Appellant requesting an appeal of the reconsideration decision.

[17] On October 11, 2011, Registry provided an “Assessment of Early Childhood Educator Certification”. This Assessment is different from the previous “Assessment” sent to the Appellant on January 27, 2011. The October 11, 2011 Assessment accepts that the Appellant’s training at PJS University is equivalent in three of the five “academic requirements”, and does not indicate any “other requirements” The two areas in which “no equivalency” is indicated are:

- Health, Safety and Nutrition, and
- Basic Practicum.

The Appellant’s Arguments

[18] The Appellant argues that her nine years of training in Slovakia exceeds the minimum standards for ECE licensing in British Columbia. She explained in her evidence that Slovakia, and other European countries, have a different educational structure for training early childhood educators. She submits that her 12 years of training at the Pedagogical School is different than that of the BC school system, as the last 4 secondary years are specialized training for entry into a career as an early childhood educator. She testified that she was required to write an entrance exam to be accepted into the 4 year career option.

[19] The Appellant submits that her subject specific training at the Pedagogical School is academically comparable to Canadian college education. The Pedagogical School offered both secondary and post-secondary programs in early childhood education, and the same teachers (professors) taught courses at both levels. She submits that the extensive practicum she had during her 4 year Pedagogical School training should be considered in assessing equivalency of her training, and that the Registry has unfairly disregarded the whole of her training at the Pedagogical School as irrelevant.

[20] The Appellant provided documentation comparing her University transcript evaluated by ICES with that of the ECE course content from the ECE approved early childhood education program at Spratt-Shaw Community College. She

submits that the course content at her university and the ECE course at Sprrott-Shaw Community College are identical. She agreed with the Registry's acknowledgement that the Sprrott-Shaw Community College program does not include as many courses in curriculum development as the PJS University program. Her submission highlights the university course name with credits weighted (as per the European Credit Transfer and Accumulation System – ECTS per the Lisbon Recognition) against the relevant topics of the Sprrott-Shaw program, with the following note:

Each learning outcome is expressed in terms of credits, with a student workload ranging from 1500 to 1800 hours for an academic year, and one credit generally corresponds to 25 – 30 hours of work.

[21] The Appellant submits that in the academic requirements portion of the Assessment Early Childhood Educator Certification enclosed with the Registrar's January 24, 2011 letter, she received credit for fewer hours than she had actually acquired from PJS University. She argues that if all her hours were counted together, she has attained the academic requirements for a 5 year ECE licence based on her University study. The only part not covered by the University, was a Practicum that was covered in a previous training institution.

[22] Training in early childhood education at the university level in Slovakia does not include a separate practicum component because that is done at the Pedagogical School level. In Slovakia, training at the Pedagogical School level is a prerequisite to admission into a University program in early childhood education.

[23] The Appellant drew the Board's attention to the website for Canadian Information Centre for International Credentials, and submitted that the following principle from that website had not been applied in her case:

- In the assessment of foreign qualifications concerning higher education, the international and national legal frameworks should be applied in a flexible way with a view to making recognition possible."

And

- The assessment criteria contained in this Recommendation have been drawn up with a view to increasing the consistency of the procedures and use of criteria for the assessment of foreign qualifications, thus assuring that similar recognition cases will be considered in reasonably similar ways by all parties to the Convention.

[24] The Appellant submits that the Registry did not look at her qualifications as a whole, and if they had, they would find that she exceeds the requirements for ECE certification in BC. She asks that she be granted a license as an Early Childhood Educator – 5 years.

[25] In addition, the Appellant submits that the Registry had in the past issued an ECE licence to someone who completed the same program at the same Pedagogical School, and was in the same class with her. The Panel was provided with a sworn statement from that person supporting that submission.

The Respondent's Arguments

[26] The Respondent states that the decision of the Director has been made based on the Regulation and the policies and procedures of the Registry for determining equivalency.

[27] The Respondent identifies that the Registry is responsible for the certification of Early Childhood Educators and Assistants within the Province of British Columbia. Section 25 of the Regulation outlines the specific requirements for certification as an Early Childhood Educator. These requirements are as follows:

- An application to the director
- Completion of a basic early childhood education training program through an educational institution listed in Item 1 of Schedule D; and
- Confirmation of 500 hours of work experience and a written reference from an Early Childhood Educator stating that the individual is personally satisfied from his or her own observations of the applicant that the applicant is competent in a number of areas.

[28] The Respondent cites Section 28 of the Regulation as providing the Director with the authority to consider equivalent training when an applicant for certification has not completed an approved early childhood education training program listed in item 1 of Schedule D. This section of the Regulation allows the Director to determine that a program or course is equivalent.

[29] The Respondent states that the Registry has developed policies and procedures to evaluate related training in order to determine equivalency. These policies and procedures must consider the following factors:

- Confirmation that the admission requirement is the completion of secondary education or the receipt of a school-leaving certificate.
- Confirmation that the province, state, national or other government body, approves the training institution.
- The course content and instructional hours meet the minimum standards as outlined in the BC Child Care Occupational Competencies and the Linking Competencies document:
 - In order to be granted full equivalency the training must meet a minimum of 80% of the instructional hours and course competencies.
 - Partial equivalency is granted when less than 80% but more than 50% of the instructional hours and competencies have been met.
 - No equivalency is granted when less than 50% of the instructional hours and competencies have been met.

[30] The Respondent submits that the training the Appellant completed through PJS University in Kosica meets some, but not all, of the academic requirements for licensure as an Early Childhood Educator. Based on a review of the information forwarded by PJS University, the Appellant has fully met the academic requirements in the following areas:

- Child Growth and Development

- Program Development/Curriculum and Foundations
- Interpersonal Skills/Community Relations/Interacting with Families

The Appellant has also met the following non-academic requirements related to the application for licensure as an Early Childhood Educator:

- Submission of a written reference attesting to the competencies required by section 25 of the Regulation
- Submission of proof of having completed at least 500 hours of work experience relevant to early childhood education.

[31] The Respondent acknowledges that most likely the Appellant's university training included 2,250 hours of instruction; however, based on an assessment of this training, she has not met the academic requirements in the Health, Safety and Nutrition area, nor is the Registry able to confirm that she has completed a minimum of 340 hours of practicum.

[32] Regarding the Appellant's training at the Pedagogical School, the Respondent's position is simply that the ECE policy is to consider only post-secondary education in determining equivalency of foreign training to British Columbia ECE certification requirements.

[33] With regard to the person who attended the Pedagogical School with the Appellant and qualified for an ECE licence, the Registry submitted that that person was required to do some additional training in BC before she qualified for her ECE licence. Further, ECE assessment procedures have changed since then. When that person was licensed, assessments of foreign credentials were not done by ICES.

[34] The Respondent submits that taking into consideration that the admission requirement at the Pedagogical School is eight years of primary school based on the information on the ICES report, the training is equivalent to Canadian secondary school education, and is not academically comparable to a Canadian college. Further, the admission requirement for most training institutions approved to offer early childhood education is the completion of 12 years of secondary education and/or the completion of grade 12 English. Many training institutions allow individuals over the age of 21 to apply as mature students, and that these applicants may be admitted without a high school diploma once they are able to demonstrate that they meet the level of academic competence expected of other applicants.

[35] Based on an assessment of the program that the Appellant completed at PJS University in Kosica and the approved early childhood educator training program offered by Sprott-Shaw Community College, the Registry concludes these programs are not identical. Further, the Registry was unable to confirm that the program at the PJS University in Kosica included a practicum.

[36] Based on the European Credit Transfer and Accumulation System – ECTS per the Lisbon Recognition, the ECTS does acknowledge that one credit is generally 25-30 hours of work.

[37] The Respondent maintains that the Appellant's training meets some, but not the entire academic requirement for licensure as an ECE educator, and she has no approved practicum. The Respondent requests the Board to confirm that Ms. Kotusova's training at the Pedagogical School does not count for the purpose of assessing equivalency of her training to BC standards and that the decision to deny the Appellant an Early Childhood Educator licence to practice be upheld by the Community Career and Assisted Living Appeal Board.

DISCUSSION AND ANALYSIS

[38] The Community Care and Assisted Living Appeal Board decides the merits of each appeal based on the evidence and argument provided by the parties. Section 29(11) of the Act states:

29(11) The board must receive evidence and argument as if a proceeding before the board were a decision of the first instance but the applicant bears the burden of proving that the decision under appeal was not justified.

[39] Section 29(12) of the Act states:

29(12) The board may confirm, reverse or vary a decision under appeal, or may send the matter back for reconsideration, with or without directions, to the person whose decision is under appeal.

[40] The Respondent's position is that there are two gaps in the Appellant's training, those being the Practicum requirements and a course in Health, Safety and Nutrition. The Appellant's position is that those gaps are filled by her training at the Pedagogical School, which the Respondent considers irrelevant because it is not post-secondary training. The issue in this case relates to whether the Appellant's training in Early Childhood Education meets the requirements for ECE certification and whether the training at the Pedagogical School should be considered in making that determination.

[41] Section 28 of the Regulation gives the Director broad discretion with respect to assessing equivalency of a program to basic early childhood education training programs recognized in British Columbia (listed in Schedule D of the Regulation). The BC legislation governing ECE licensing does not specify that training must be post-secondary. The requirement that training be at a post-secondary level is Registry policy and is meant to provide guidance in applying the legislation. We note that, although useful as a guideline, unique circumstances may arise in which the rigid application of policy may lead to unfair or unreasonable results.

[42] We are convinced by the Appellant's oral testimony as well as the documentary evidence from the Pedagogical School that in Slovakia, practical aspects of early childhood education are acquired through specialized secondary school training. Given the nature of the specialized training at the Pedagogical School, the entrance requirements to undertake that training and the instructional level of that training, we find the training at the Pedagogical School is not comparable to Canadian High Schools. At the end of her training at the Pedagogical School, the Appellant was qualified for a specific career.

[43] We have considered that in addition to training at the Pedagogical School, the Appellant has 5 years of university training, 11 years of work experience and 520 hours of volunteering at a BC pre-school. We also note that the Registry acknowledged that the Appellant's 5 years of university training is equivalent to 2,250 hours, far exceeding the instructional hours required for ECE licensing. The documentary evidence from the Pedagogical School shows that the Appellant completed 510 hours of Basic Practicum.

[44] The Registry says that "each application from an individual trained outside of Canada is assessed on its own merit, using the information provided by ICES and the training institution." However, the Registry's policy excludes from the assessment any training that does not fall within its definition of "post-secondary".

[45] The Registry policy that it will not consider training that is not "post-secondary" in assessing equivalency creates something like a catch-22 situation for the Appellant and other applicants from countries with a similar training structure. This educational structure for a career in pre-school education includes 4 years in a specialized secondary school. This level of training includes a basic practicum. Advanced training may be taken at the post-secondary level, but there is no extensive basic practicum at this level, because those entering the university training will have already completed a basic practicum.

DECISION

[46] In making this decision we have considered all of the evidence and arguments provided to us whether or not they have been specifically referred to in these reasons.

[47] The Registry acknowledges that it routinely applies the policy of only considering "post secondary" education for purposes of determining equivalency and that it was applied in this case such that the Appellant's specialized training at the Pedagogical School was considered completely irrelevant. We find that such a rigid application of the policy is an unreasonable fettering of the discretion conferred on the Director by section 28 of the Regulation. Given the extent of the Appellant's training and experience in early childhood education, and the fact that in Slovakia the practicum aspect of ECE training is acquired at the Pedagogical School level, the rigid application of the policy is at odds with the Canadian Information Centre for International Credentials principle of flexibility "with a view to making recognition possible" in assessing foreign qualifications. Further, categorizing the Pedagogical School training as completely irrelevant seems at odds with the Registry's assertion that "each application from an individual trained outside of Canada is assessed on its own merit..."

[48] We find that, in the overall circumstances of this case, a fair assessment of the equivalency of the Appellant's ECE training in Slovakia requires further consideration of her complete training background. The Registry's denial of the Appellant's application for an ECE 5 year licence was based on a rigid application of its policy and has not considered equivalent any training programs with entry requirements other than 12 years of schooling. While that policy may be reasonable in the vast majority of cases, in the particular circumstances before the

Panel on this Appeal the application of that policy has resulted in the exclusion of an important, and in our view relevant, component of the Appellant's foreign credentials.

[49] Therefore the appeal is allowed and we direct that the matter be returned to the Registry for reconsideration with directions to consider the Appellant's training from the Pedagogical School in its assessment of equivalency.

"Gordon Armour"

Gordon Armour, Panel Chair

"Paula Barnsley"

Paula Barnsley, Member

"Wendy Cooper"

Wendy Cooper, Member

February 6, 2012

Appendix A

Section 8(1) of the *Community Care and Assisted Living Act*, S.B.C. 2002, c.75 and sections 25 and 28 of the *Child Care Licensing Regulation*, BC Reg. 332/2007, govern the issuance of early childhood educator certificates. They read as follows:

Community Care and Assisted Living Act

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.