

# Finding child care with flexible hours 'a real challenge for families' says advocate <sup>[1]</sup>

Employers are obligated to accommodate employees caring for parents or children, according to a York Region lawyer

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## EXCERPTS

Stefanie Flicker was excited when she applied for work as a caretaker with the York Region District School Board (YRDSB), but when the Newmarket mom was told shifts begin at 6 a.m., she wasn't sure she would be able to do the job.

Flicker was unable to start work before 7 a.m. because the earliest daycare she could find for her daughter started at 6:30 a.m., she said.

Neither friends nor family were able to take two-year-old Sarah to daycare. Sarah's father leaves for his job as a sprinkler fitter at 5 a.m. and Sarah's grandfather — her only nearby grandparent — leaves for his Canada Post job early as well.

Carolyn Ferns, public policy and government relations coordinator with the Ontario Coalition for Better Child Care, said finding child care for parents with non-standard work hours is a challenge for many families.

And what was once considered non-standard hours are increasingly becoming standard and anyone working outside of the typical workday, like shift workers, are not well-served by daycares that cater to nine-to-five workers, she said.

"We definitely need to expand programs to serve families that need to have those hours of care and I think it's a real challenge for families; finding a child care space right now is hard enough as it is — there's wait lists everywhere — but then if you have to find child care that also serves those different hours, it's going to be extra hard."

Flicker contacted the school board's Human Rights Commissioner's Office (HRCO) to request a non-medical accommodation for flexibility in her schedule.

According to Tanya Sambhi, an employment lawyer with Minken Employment Lawyers in York Region, employers have an obligation under the Human Rights Code of Ontario to accommodate an employee — up to the point it creates an "undue hardship" for an employer — for a protected ground under the code.

One of the protected grounds under the code is family status, requiring employers not to discriminate against an employee who is caring for a child or parent.

Undue hardship is "very tricky to define," said Sambhi, and is usually looked at on a case-by-case basis but "it has to be something that is significantly onerous on the employer to do."

"But absent undue hardship, the employer does have an obligation to accommodate," she added.

Flicker's request was accepted and she was able to begin shifts an hour later.

While the school board did accommodate Flicker's request for a later start time, "It would be much easier for so many families if we had child care programs that operated more flexible hours, more extended hours," Ferns said.

The recently agreed upon deal between Ontario and the federal government to provide \$10-a-day child care is supposed to include 86,000 new, licensed child care spaces but, according to Ferns, local and provincial governments have to take what those families need into account when programs in those spaces are created.

"There needs to be thought and planning to ensure that new spaces actually meet the needs of families that need to have care with more flexible hours."

Ontario has made statements about the need for flexible hours but it's not enough to ensure it's happening, she added.

Having worked mainly factory jobs, Flicker was eager to start her new role as caretaker — one she envisioned as a long-term career for herself.

"I came to this job right after maternity leave and that's what I was planning to do, for this job to be my career. And they would've had a solid caretaker until I retire."

The 28-year-old first-time mom liked going to her job everyday and enjoyed building relationships with teachers, staff and her co-workers. She took pride in making the school clean and safe for students and staff, she said.

"I liked working in the school. I liked talking to teachers. . . I liked my co-workers. I enjoy it. I've had a lot of crappy factory jobs, I like this job."

Before her one-year contract ended on Jan. 31, 2022, she received an email from the board informing her that the contract was being extended for a period of two months.

But immediately following that email, she received a second one stating the accommodation would not be extended.

Flicker knows many caretakers receiving special accommodations and she doesn't know why the school wasn't willing to continue with hers, she said.

"While we cannot speak to this individual's specific circumstance, when making decisions regarding accommodation, the appropriate legislation and board policies are always considered and duly applied. This ensures fairness as well as consistency of practice for all such requests," said Licinio Miguelo, senior manager corporate communications at YRDSB.

Flicker's contract was not renewed following the extension and she is no longer a school board employee.

She believes that by declining to renew her caretaker contract, the school board is penalizing her because taking Sarah to daycare required her to start her shift an hour later, and she said she has begun the process of filing a complaint with the Ontario Human Rights Commission.

"People have families and they need to work. That's why it upset me. My daughter's going to end up going to the York Region School Board, we live here in Newmarket and this is what the school board did? They won't employ somebody because of a start time because of a little kid?"

However, according to Miguelo, there are no guarantees a contract for a term contract employee will be renewed or that their position will become permanent. When a non-union contract ends, "the position is posted for a competitive recruitment process in which that individual can participate."

**Region:** Ontario <sup>[3]</sup>

**Tags:** flexible hours <sup>[4]</sup>

access to child care <sup>[5]</sup>

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**Source URL (modified on 4 May 2022):** <https://childcarecanada.org/documents/child-care-news/22/05/finding-child-care-flexible-hours-real-challenge-families-says>

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