

Ontario Education Ministry wants daycare death lawsuit tossed ^[1]

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EXCERPTS:

The Ontario Education Ministry wants a Newmarket court to throw out a lawsuit it's facing over the death of 2-year-old Eva Ravikovich at an illegal home daycare last July, arguing it's not responsible because the business was unlicensed.

The Education Ministry, which oversees child care in Ontario, outlined its position in a notice of motion filed Monday, stating it "does not owe the plaintiff" - the dead toddler's family - a "duty of care," and that the lawsuit should be dismissed because the child-care business where Eva died was unlicensed and unregulated by the province.

Eva Ravikovich died at an illegally overcrowded daycare at 343 Yellowwood Circle in Vaughan last summer, after ministry officers failed to investigate four complaints about the number of kids being looked after by the business. Under the Day Nurseries Act - still in effect after the Liberal government introduced a bill in December to beef up the rules - unlicensed daycares can't look after more than five kids, but are otherwise entirely unregulated by the Education Ministry. It enforces the rule by responding to public complaints.

Eva's parents, Vyacheslav Ravikovich and Ekaterina Evtropova, announced their \$3.5 million lawsuit against the Education Ministry in August, alleging government negligence was a factor in the toddler's death. They are also suing the daycare owners and operators.

There were at least 35 children signed up for care at the Vaughan daycare when Eva died. York Region health officials subsequently shut it down for being filthy. Inspectors found potentially deadly bacteria on food in the kitchen, and 14 dogs in the neighbouring house owned by the child minders that may also have been used for child care.

The child's cause of death has yet to be determined, regional coroner Dave Evans told Torstar on Wednesday.

Patrick Brown, the lawyer representing Eva's family in their lawsuit against the province, said the motion to have the case tossed out "doesn't have much merit," given the ministry's acknowledged responsibility to ensure that unlicensed daycares aren't looking after too many kids.

Admitting last August that inspectors had failed to respond to 25 of 448 complaints about overcrowded, unlicensed daycares between January 2012 and July 2013, Education Minister Liz Sandals said she had set up a "dedicated enforcement team" to make sure inspectors carry out their duties when complaints come in.

Two ministry officials were also suspended in the weeks following Eva's death.

"The fact that they're saying they're not responsible, because it was an unlicensed facility - they were directly responsible for monitoring the number of people inside those facilities, and on this one, they in fact knew that," said Brown. He pointed out that, despite missing four inspections, the ministry had warned the daycare about having too many kids before.

"They knew it was (operating) contrary to their own regulations," he said.

A spokesperson for the minister declined to comment on the lawsuit Wednesday.

Ontario has licensed spots for only about 20 per cent of children under 12 in the province, meaning most parents must find unregulated child care. Such daycares don't have to deal with mandatory food and safety standards, or mandatory government inspections.

Three children, including Eva, have died in unlicensed child care in the GTA in the past six months, and the government introduced a new bill at Queen's Park last month to overhaul the current rules.

If passed, the legislation will give the province the new power to immediately close unlicensed daycares when children are at risk, and dish out fines of up to \$250,000 for operating an illegal daycare.

Unlicensed providers would also no longer be allowed to exempt their children from the daycare maximum of five kids - and a possible limit of just two children under the age of 2.

The bill marks the first change to child-care rules in decades, the only legislative answer to concerns about unlicensed daycares that have been aired in four public inquests since the 1980s.

-reprinted from Metro

Region: Ontario ^[2]

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