

Eva Ravikovich lawsuit can go to trial judge rules ^[1]

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EXCERPTS

A Newmarket judge has dismissed an attempt by the Ministry of Education to block a \$3.5-million lawsuit from the family of Eva Ravikovich, a toddler who died in an illegal home daycare north of Toronto in July 2013.

Superior Court Justice Mary Vallee ruled against the province, which argued it has no “duty of care” to the toddler’s parents because Eva died in an unlicensed daycare. The decision means the civil suit can now go to trial.

“Of course I’m very happy with it, that’s what I feel right now. I’m very happy and I hope (the trial) will go toward the same path, and we’re going to get closure,” said Ekaterina Ravikovich, Eva’s mother.

“I didn’t really have a doubt that the judge would (side with us).”

It has been nearly two years since the little girl was found lifeless in a two-storey house in Vaughan. Officials determined at least 35 children were enrolled at the daycare when Eva died. The business was shuttered by health authorities, who found dangerous bacteria and filthy conditions in the home.

The education ministry later admitted that it failed to investigate four complaints of overcrowding at the daycare in the months before Eva’s death. According to the Day Nurseries Act, in force at the time, unlicensed daycares could only look after five children under 10 who aren’t members of the operator’s family. Such businesses were otherwise unregulated and only monitored if the government received a complaint from the public. That law has since been replaced with the Child Care and Early Years Act, which increases penalties for overcrowding from \$2,000 to a maximum of \$250,000 and imposes a hard cap of five kids, including relatives of the operator, who can attend an unlicensed daycare.

In her ruling on the case Monday, Vallee found the Ministry of Education showed itself capable of acting against an unlicensed daycare when it sought and won a court injunction to shut down the business on Yellowwood Circ. after Eva’s death. Vallee also pointed to the complaints the ministry received about the daycare.

The Ravikovich family is alleging in its lawsuit that government negligence was a factor in Eva’s death.

“Clearly, the ministry knew of the situation,” Vallee wrote in dismissing the government’s motion. “It is not plain, obvious and beyond a reasonable doubt” that the family’s claims cannot succeed.

Education Minister Liz Sandals said the ministry is reviewing the decision but won’t be commenting further because the case is before the courts.

“This was a tragic situation, and my thoughts and prayers continue to be with Eva’s family,” she said in an email.

Patrick Brown, the lawyer representing Eva’s family, said he’s hopeful the decision will force the education ministry to hand over documents relating to the daycare and the toddler’s death that he hasn’t been able to see yet. “This makes a big difference for our case because it means we can push forward,” he said.

Brpwn added that Eva’s family hasn’t seen the coroner’s investigation into her death because York Region homicide detectives are still investigating.

Child-care experts welcomed the judge’s ruling but said the case won’t likely change the child-care landscape for most parents scrambling for quality care in Ontario.

Most unregulated home daycares don’t have outstanding complaints, said Martha Friendly of the Child Care Resource and Research Unit. “Nobody knows if they are safe or not until somebody dies. And that’s a problem,” she said.

“Even if (the province is) not ultimately responsible for all the unlicensed child care, it begs the question why most people have to use it and who really is responsible.”

Eva's death prompted a Star investigation into Ontario's daycare system, which includes an estimated 823,000 children in unlicensed child-care settings. Unlike licensed daycares, unlicensed business don't have to follow the same health and safety standards, and aren't subject to inspections unless someone complains about overcrowding to the ministry of education.

Before the new child-care law passed in December 2014, the daycare legislation in Ontario hadn't been updated for more than 30 years. Many stipulations of the new act, such as the stricter limit of five kids, won't kick in until next year.

The government held an internal investigation that found it failed to follow up on 25 of 244 overcrowding complaints across the province in the 18 months before Eva died. Two ministry staff were suspended and Education Minister Liz Sandals set up a new "enforcement team" to respond to complaints.

Provincial Ombudsman André Marin determined last October that the ministry's handling of unlicensed daycare complaints amounted to "systemic government ineptitude" and called Eva's case the "canary in the coal mine."

Ravikovich and her husband Vycheslav have since had a second child, a daughter who is now 7 months old.

-reprinted from The Toronto Star

Region: Ontario ^[3]

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