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## Local

Winnipeg Free Press - PRINT EDITION

# Phoenix inquiry could be delayed

## Child and Family Services union files Appeal Court motion

By: Larry Kusch

Posted: 02/4/2012 1:00 AM | [Comments: 57 \(including replies\)](#)

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A union representing Child and Family Services workers has filed a court motion that could temporarily derail the inquiry into the death of Phoenix Sinclair.

The Manitoba Government and General Employees Union applied to the Manitoba Court of Appeal Friday to force the commission of inquiry to justify its legal status.

### **Inquiry's timetable**

- Dec. 2011-March 2012 -- The commission is now interviewing witnesses.
- April 5 -- Commission to unveil the list of witnesses it will call at the public hearing.
- May 16 -- Commission to rule on any publication ban requests.
- May 23 -- Commission to begin hearing witness testimony at the Winnipeg Convention Centre.
- Aug. 3 -- Inquiry breaks for the summer.
- Sept. 4-Nov. 8 -- Completion of witness testimony.
- Nov. 26-Dec. 10 -- Closing submissions by the various parties.

MGEU lawyer John Harvie said under the Evidence Act, the commission must "submit a stated case" to the Appeal Court. A court date has been set for Thursday.

The MGEU wrote to commission counsel Sherri Walsh on Tuesday asking the commission to approach the high court itself. Inquiry commissioner Ted Hughes refused, lobbing the ball back into the MGEU's court. In a letter earlier Friday, Hughes said if the union wanted to take the matter to court it should "do so in a timely manner."

"Over 10 months have passed since the inquiry was established. Commission counsel and staff have been hard at work ever since doing necessary preparatory work, including the interviewing of witnesses, in order to be ready for the commencement of the presentation of evidence on May 23, 2012," Hughes wrote.

He said "it is in the public interest" the current inquiry timetable be maintained.

Later the same day, the union filed its court motion. "It's in everybody's interests that this be dealt with quickly," Harvie said. He declined to be specific about what the union is seeking, saying he didn't want to argue his case in the press.

Phoenix Sinclair was five years old when she was murdered in 2005. But it took more than nine months for provincial child-welfare officials to even realize she was missing, despite the fact she had been in the care of Child and Family Services and only recently returned to her birth mother. Her remains were found in 2006 in the dump on the Fisher River First Nation.

Phoenix's mother, Samantha Kematch, and stepfather, Karl McKay, were convicted of first-degree murder in 2008 and given life sentences with no chance of parole for at least 25 years.

The NDP government called an inquiry to examine the circumstances that led to her death, following a period of abuse that included prolonged beatings and broken bones all the way from her pelvis to her skull. Why various child-welfare agencies failed Phoenix is the key subject of the inquiry.

Walsh said in an interview Friday the commission is currently conducting pre-hearing interviews with witnesses. It was to begin interviewing CFS workers -- members of the MGEU -- on Thursday. So far none has been.

"I have to say that I was surprised to receive this letter and disappointed," Walsh said, noting the inquiry's timetable has been posted since Oct. 24.

The MGEU has sought a publication ban on the names and faces of the nearly 40 CFS employees who are expected to testify at the inquiry. It said the ability of child-welfare workers to do their jobs and earn the trust of families coping with abuse or neglect will be compromised if their names and photos are widely published or broadcast.

In its letter to the commission earlier this week, the MGEU essentially argued the inquiry is not validly constituted. But on Friday, Harvie rejected the notion the union was trying to scuttle the inquiry.

"All the opposition is that we believe that there is some difficulty with respect to this order in council (establishing the commission). And we want this determined," he said.

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Despicable! For a province with so many kids in care, you would think there would be some urgency to make sure things are being done right. Devolution of CFS is complicit in the death of Phoenix and now the guilty use every legal tactic in the book to suppress the truth.

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Score: 12

**SurferChick**

9:30 AM on 2/4/2012

Wow. Just wow. I can't even put into words how disappointed I am over this action. It's one thing for a little girl to slip through the cracks of the system, but it's entirely another to try to block the process that might fix it so it doesn't happen again.

 [3 replies](#)

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Score: 7

**The Bear**

10:01 AM on 2/4/2012

this is just a shameful act by the social workers and their union.

 [1 reply](#)

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Score: 10

**so cynical**

10:20 AM on 2/4/2012

Mgeu....its only dead and abused kids right. Not a fat overpaid cfs worker we worry about getting made responsible for their action (ie JOB).

I guess dead kids don't matter when its the gov't responsibility for their care.