

## Class action suit launched against Ontario over alleged abuse in 'training schools'

A proposed class action lawsuit has been launched against the Ontario government alleging horrific sexual, physical and psychological abuse perpetrated on former students of the province's "training schools" between 1931 and 1984.

The schools were residential institutions operated by the province to house children between the ages of 8 and 16 who were deemed by the courts to be "incorrigible" or difficult to control. Children could be sent to training school without having committed any crime. Truancy, running away from home, or even begging could land a child at any one of the province's more than a dozen institutions.

"The repercussions (of training school) were unreal in my life," said representative plaintiff Kirk Keeping, who was sent at age 15 to a training school in Bowmanville, where he says he was forced into sexual acts with male and female staff members and suffered frequent beatings.

The two years he spent in training school had a profound effect on his life, said Keeping, 64. "I just spiralled down for many years in my life. It was a roller-coaster ride trying to hold down jobs, trying to have a family and live normal. It was a hard thing."

The lawsuit, filed in Thunder Bay, where Keeping lives, is seeking \$500 million in damages for negligence, breach of fiduciary duty and vicarious liability, as well as \$100 million in punitive damages. Lawyers who filed the claim believe there could be thousands of class members.

"Training schools contained a toxic environment in which degrading and humiliating treatment of children in the Crown's care was the norm, physical, sexual, and psychological abuse was rampant, and residents of training schools were systematically denied their dignity and basic human rights," reads the claim, filed in court Friday, which lists 14 training institutions operated by the province. "Through the Crown's systemic negligence and breach of fiduciary duty, this improper conduct continued for decades."

A spokesperson for the Ministry of Attorney General said it would be inappropriate to comment "as this matter is subject to litigation."

A recent Star investigation found that the province has secretly settled 220 lawsuits launched by individual former training school residents. As a condition of settlement, victims had to sign confidentiality agreements — "gag orders," as some former residents called them — to receive financial compensation.

The Star also found that two provincial officials warned of student mistreatment at the hands of training school staff and teachers, but that the province appeared to have ignored these warnings.

Keeping, the representative plaintiff, told the Star a judge sent him to Pine Ridge training school in Bowmanville in 1968, not for committing any crime, but for simply for being a "wild boy with a slingshot in his pocket."

The statement of claim alleges that he was assigned to work in Pine Ridge's kitchen, where he was taken into a back room by a female staffer who performed oral sex on him and touched his genitals. The staffer then allegedly took Keeping, who was a virgin, into a large cooler and had sex with him.

The claim also states that he was sent to work at the school's dairy farm to milk cows. After a few weeks, a male employee known only as "Jake" became friendly with Keeping, giving him tobacco, rolling papers and matches. One night, Jake called Keeping down to the farm and performed oral sex on him, the claim alleges. Jake then told Keeping he would show him "how girls got pregnant," and then jumped on Keeping and "performed simulated sex."

The sexual abuse continued for the next several weeks, Keeping alleges. He also says he saw Jake touch the genitals of other residents. Keeping also alleges that staff would put him in a locker and hit him with running shoes when he misbehaved.

He says he is participating in the class action because he wants to hold the government to account for "the damage that was done to a lot of us."

“(The staff) had too much authority ... we were very vulnerable. We were wide open for them to do as they chose,” Keeping said.

Among the other abuses against training school residents that the lawsuit alleges: lengthy punishments in solitary confinement, known as “the hole”; being denied access to the washroom, thus forcing residents to soil themselves; and, being made to scrub floors with toothbrushes. In addition, the claim alleges that staff members were unqualified and improperly supervised.

Jonathan Ptak, a partner at the firm Koskie Miskie and the lead lawyer on the claim, said it could take as long as a year for a judge to hear evidence and make a decision on whether to certify the case as a class action proceeding.

“We hope to be able to shine a light on this chapter in history, which is really a shameful one in respect of how Ontario has treated its most vulnerable children in its care,” Ptak said. “And we’re hoping for institutional change and behavioural change with respect to these kinds of circumstances and places in the future as well.”

If the suit is certified, Ptak said, notice will be then given to the class in various forms, such as ads in newspapers and other media so that former students can opt out of the class action if they wish.

But some lawyers who practise in sexual assault law have raised concerns that class action lawsuits may not be the best vehicles for survivors.

Loretta Merritt, a Toronto lawyer who focuses on sexual and physical abuse law, said the requirement for victims to “opt out” of a class action lawsuit is problematic.

“If class members don’t opt out by a date specified by the court, they are deemed to be included, even if they don’t know about the lawsuit or don’t feel ready to come forward with their experiences,” said Merritt, who has filed dozens of individual lawsuits on behalf of former training school residents alleging sexual abuse. “Once a class action finishes, the law states that those who did not opt out and didn’t participate are now barred from pursuing an individual claim.”

She noted that the requirement to come forward by a specific time in class actions runs counter to the province’s decision in March 2016 to eliminate limitation periods for civil sexual assault claims.

“It’s a conflict in the law that denies abuse survivors access to justice.”

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Toronto Star  
Dec 11, 2017