

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF HUMAN SERVICES

In Re: The Immediate Suspension of  
the License of

Stacy Gustafson  
305 First Avenue SE  
Aitkin, MN 56431

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

to provide family day care under Minnesota  
Rules, parts 9502.0300 to 9502.0445

The Minnesota Department of Human Services (the Department) initiated this contested case proceeding by issuing a Notice of and Order for Hearing on November 16, 1999. The notice scheduled a hearing in this matter for Friday, January 14, 2000, in Aitkin, Minnesota.

Candace Prigge, Assistant Crow Wing County Attorney, 322 Laurel Street, Brainerd, Minnesota 56401, is representing the Minnesota Department of Human Services and the Aitkin County Health and Human Services Department (the County). Heinrich A. Brucker, Attorney at Law, 201 Minnesota Avenue North, P.O. Box 388, Aitkin, Minnesota 56431-0388, is representing the Appellant, Stacy Gustafson.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services will make the final decision after reviewing the hearing record. The Commissioner may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minnesota Law<sup>[1]</sup>, the Commissioner may not make his final decision until after the parties have had access to this Report for at least ten days. During that time, the Commissioner must give each party adversely affected by this Report an opportunity to file objections to the report and to present argument to him. Parties should contact the office of Michael O'Keefe, Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155, to find out how to file objections or present argument.

## **STATEMENT OF THE ISSUE**

Whether Ms. Gustafson's appeal should be dismissed with prejudice.

Based upon the record in this matter, the Administrative Law Judge makes the following:

## **FINDINGS OF FACT**

1. On December 1, 1999, the Department served the Notice of and Order for Hearing that began this matter by sending it via U. S. Mail to Ms. Gustafson's attorney of record, namely: Heinrich A. Brucker, Attorney at Law, 201 Minnesota Avenue North, P.O. Box 388, Aitkin, Minnesota 56431-0388.

2. On December 6, 1999, Mr. Brucker filed a Notice of Appearance indicating that he was appearing in this contested case proceeding on Ms. Gustafson's behalf.

3. By letter dated January 4, 2000,<sup>[2]</sup> Mr. Brucker informed the ALJ and opposing counsel that Ms. Gustafson no longer wished to pursue her pending appeal of the suspension of her family child care license and therefore agreed to dismiss her appeal.

4. Ms. Gustafson has therefore voluntarily agreed to dismissal of this contested case proceeding.

5. The Administrative Law Judge adopts as Findings any Conclusions which are more appropriately described as Findings.

Based upon the Findings of Fact, the Administrative Law Judge makes the following:

## **CONCLUSIONS**

1. Minnesota law<sup>[3]</sup> gives the Administrative Law Judge and the Commissioner of the Department of Human Services authority to conduct this proceeding and to make findings, conclusions, and orders.

2. The Department and the County have complied with all the law's substantive and procedural requirements.

3. The Department and the County gave Ms. Banks proper and timely notice of the hearing in this matter.

4. Because of Ms. Gustafson's agreement to dismiss her appeal, the Commissioner may dismiss this contested case proceeding with prejudice.<sup>[4]</sup>

5. The Administrative Law Judge adopts as Conclusions any Findings which are more appropriately described as Conclusions.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

The Administrative Law Judge recommends that the Commissioner DISMISS this contested case proceeding, with prejudice.

Dated this 6th day of January 2000.

s/ Bruce H. Johnson  
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BRUCE H. JOHNSON  
Administrative Law Judge

### **NOTICE**

Under Minnesota law,<sup>[5]</sup> the Commissioner must serve his final decision upon each party and the Administrative Law Judge by first-class mail.

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<sup>[1]</sup> Minn. Stat. § 14.61 (1996). (Unless otherwise specified, all references to Minnesota Statutes are to the 1996 edition.)

<sup>[2]</sup> Attachment A.

<sup>[3]</sup> Minn. Stat. §§ 245A.01 to 245A.16, and 14.50.

<sup>[4]</sup> See Minn. R. Civ. P. 41(b).

<sup>[5]</sup> Minn. Stat. § 14.62, subd. 1.