

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

In the Matter of the Denial of the
Application of Amy Baker for a Child Foster
Care License

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on February 23, 2005, in the Steamboat Room of the Blue Earth County Government Center, 410 South Fifth Street, Mankato, Minnesota. Mark Lindahl, Assistant Blue Earth County Attorney, Government Center, 410 South Fifth Street, P.O. Box 3129, Mankato, MN 56002-3129, appeared on behalf of Blue Earth County and the Minnesota Department of Human Services. There was no appearance by or on behalf of the Applicant, Amy Baker, 212 East Liberty Street, Mankato, MN 56001. There were no further submissions following the hearing.

This Report is a recommendation, not a final decision. The Commissioner of the Department of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Office of the Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155 (telephone no. (651) 296-2701), to ascertain the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether the Applicant's application for a license to provide child foster care should be denied because the Applicant has a theft conviction, substantiated findings of serious and recurring maltreatment of a child,

and two incidents of fifth-degree assault which the Department contends are substantiated by a preponderance of the evidence.

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

FINDINGS OF FACT

The Applicant, Amy Baker, applied to become a foster parent in April of 2004.¹ Her background study resulted in the discovery of several disqualifications² involving a theft conviction in 1999 for shoplifting,³ substantiated findings of serious and recurring maltreatment of a child based on situations occurring in 1998, 1999, and 2000,⁴ and two incidents in 1998 and 1999 in which it was determined that a preponderance of the evidence demonstrated that the Applicant committed domestic assault.⁵ The Applicant did not request reconsideration of the disqualifications within fifteen days and the County recommended that the Commissioner of Human Services deny the application.⁶ The Commissioner thereafter denied the application and the Applicant appealed the denial.⁷

The Notice of and Order for Hearing in this matter was served upon the Applicant by U.S. mail on January 19, 2005, at 212 E. Liberty Street, Mankato, MN 56001.

The Notice of and Order for Hearing mailed to the Applicant included the following notice: "Failure to appear at the hearing or prehearing conference will result in the allegations of the Notice of and Order for Hearing, including the incorporated order, being taken as true. This means that the action being appealed will be upheld."

The Applicant did not file any Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. The Applicant did not appear at the hearing scheduled for February 23, 2005, or have an appearance made on her behalf. The Applicant also did not contact the Administrative Law Judge between February 23, 2005, and the date on which this Report was issued.

5. Because the Applicant failed to appear at the hearing in this matter, she is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing and the documents attached to the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based on the foregoing Findings of Fact, the Administrative Law Judge hereby makes the following:

¹ Ex. 4.

² Exs. 2, 3, 5; Notice of and Order for Hearing, Ex. A.

³ Exs. 5, 9; Notice of and Order for Hearing, Ex. A.

⁴ Exs. 11-15; Notice of and Order for Hearing, Ex. A.

⁵ Exs. 6-8, 10; Notice of and Order for Hearing, Ex. A.

⁶ Ex. 2; Notice of and Order for Hearing, Ex. A.

⁷ Notice of and Order for Hearing, Ex. A.

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Commissioner of Human Services have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 245A.08.

2. The Applicant was given timely and proper notice of the hearing in this matter and all relevant substantive and procedural requirements of statutes and rules have been fulfilled.

3. Under Minn. Rule 1400.6000, the Applicant is in default as a result of her failure to appear at the scheduled hearing.

4. Under Minn. Rule 1400.6000, when a party defaults, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes the allegations and issues set forth in the Notice of and Order for Hearing and attached Exhibit A as true and deemed proved. Accordingly, the denial of the Applicant's application for a child foster care license is warranted.

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED:

That the Commissioner's order denying the application of Amy Baker for a child foster care license be AFFIRMED.

Dated: March 7, 2005

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

Reported: Tape Recorded (one tape).