

	Link to Final Agency Decision
	OAH 4-1800-20467-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the Revocation of the License of Jodi Olson	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION
--	---

The above-entitled matter came on before Administrative Law Judge Bruce H. Johnson (the "ALJ") for hearing on Friday, July 17, 2009, at 9:30 a.m., at the Northland Office Building, Liz Prebich Room, Third Floor, 307 South 1st Street, Virginia, Minnesota. The hearing was held pursuant to a Notice and Order for Prehearing Conference and Hearing issued on March 18, 2009.

Joseph M. Fischer, Assistant St. Louis County Attorney, appeared on behalf of the Minnesota Department of Human Services (Department) and the St. Louis County Public Health and Human Services Department (County). The Licensee, Jodi Olson, did not appear at hearing in person or by counsel.¹ The OAH hearing record closed on July 17, 2009, when the hearing ended.

STATEMENT OF THE ISSUES

1. Whether the Licensee failed to comply with all of the terms of Conditional License issued to her on May 23, 2008.
2. Whether the Licensee has violated statutes and rules that are applicable to licensed child care programs?
3. Whether the Commissioner should revoke the Licensee's child care license?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On April 23, 2009, a copy of the Notice of and Order for Hearing was sent via first class mail to Jodi Olson as appears from the Affidavit of Mailing on file herein.

¹ See Finding of Fact No. 5.

That address was the address that the Licensee had provided to the Department, in connection with her licensure as a provider of family child care services.

2. Prior to the hearing, the St. Louis County Attorney's Office called the Licensee's residence. The Licensee was unavailable, but the Licensee's daughter answered the telephone and was asked to remind her mother of the upcoming hearing on July 17, 2009.²

3. The Respondent did not appear at the hearing, did not file a Notice of Appearance, and did not request a continuance or any other relief.

4. The Notice of and Order for Hearing contained the following informational warning:

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.

5. Because Respondent failed to appear at the hearing, she is in default.

6. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing are taken as true and incorporated by reference into these Findings of Fact.

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

CONCLUSIONS

1. The ALJ and the Department are authorized to consider the charges against Respondents under Minn. Stat. §§ 14.50 and 245A.08 and Minn. R. 1400.8505 to 1400.8612 (2001).

2. The Licensee received due, proper and timely notice of the charges against her, and of the time and place of the hearing. This matter is, therefore, properly before the Department and the ALJ.

3. The Department has complied with all relevant substantive and procedural legal requirements.

4. Under Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. On default, the allegations of, and the issues set out in the Notice of and Order for Hearing or other pleading may be taken as true or deemed proved without further evidence.

² Testimony of Joseph M. Fischer.

5. The Licensee is in default herein as a result of the failure to appear at the hearing.

6. The Licensee failed to comply with all of the terms of a Conditional License issued to her by the Department on May 23, 2008.

7. The Licensee also violated statutes and rules that are applicable to her licensed child care programs.

8. The Department therefore has the authority to revoke the Licensee's family child care license pursuant to Minn. Stat. § 245A.07, subd. 3.

Based upon these Conclusions the Administrative Law Judge makes the following:

RECOMMENDATION

Based upon these Conclusions, the Administrative Law Judge respectfully recommends that: the Commissioner AFFIRM revocation of the Licensee's license to provide family child care.

Dated: July 22, 2009

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

Digitally recorded

NOTICES

This report is a recommendation, not a final decision. The Commissioner 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. Under 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 Cal Ludeman, Commissioner, Department of Human Services, P.O. Box 64998, St. Paul, MN 55164-0998, 651-296-2701, to learn 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. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the negative licensing action, if any, to be imposed. 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 (2006), the Commissioner is required to serve his final decision upon each party and the Administrative Law Judge by first class mail.