

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

YOLANDA CHEESMON,)	
)	
Petitioner,)	
)	
vs.)	Case No. 98-5593
)	
DEPARTMENT OF CHILDREN)	
AND FAMILY SERVICES,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

A formal hearing in this case was held pursuant to notice, on April 22, 1999, by Stephen F. Dean, assigned Administrative Law Judge of the Division of Administrative Hearings, in Panama City, Florida.

APPEARANCES

For Petitioner:	Yolanda Cheesmon, <u>pro se</u> 1012 Yates Avenue Panama City, Florida 32402
For Respondent:	John R. Perry, Esquire Department of Children And Family Services 2639 North Monroe Street, Suite 252A Tallahassee, Florida 32399-2949

STATEMENT OF THE ISSUE

Should the Petitioner's application for registration to operate a family day care home be approved?

PRELIMINARY STATEMENT

The Petitioner was registering her home as a family day care home. During this process, the Department's investigator

attempted to contact Petitioner and was unable to. Finally, the investigator found that Petitioner had moved to another house.

The investigator advised Petitioner she would have to apply for registration of that house and not the original one. Petitioner revised her application to reflect the new location. The investigator then advised Petitioner she would need a letter showing that the owner of the residence agreed to the operation of the family day care home.

The Petitioner filed a new application, and a letter, purportedly from the landlord, agreeing to the use of the property as a day care home. On October 28, 1998, the investigator received an anonymous letter alleging that the landlord's letter was forged. The investigator contacted Petitioner, and Petitioner admitted that she had forged the letter. Based upon this admission, the Department denied Petitioner's application and advised her of a right to a hearing.

The Petitioner requested a formal hearing, and the Department forwarded the case to the Division of Administrative Hearings. The matter was noticed for hearing on April 22, 1999, by notice dated January 20, 1999. The case was heard on the date originally noticed.

The Petitioner testified in her own behalf and introduced several letters in support of her application. The Department called its investigator to testify and introduced Exhibits 1 through 4 into the record.

The Department filed a Proposed Recommended Order which was read and considered.

FINDINGS OF FACT

1. In August 1998, Petitioner, Yolanda Cheesmon, registered her home at 1012 Yates Avenue in Panama City, Florida, as a family day care home with Respondent, Department of Children and Family Services.

2. In September 1998, Michelle Barsanti, the Department's Licensing Counselor, attempted to reach Ms. Cheesmon at her home by telephone. She was unable to do so because the telephone had been disconnected. Because the Department's day care standards required day care homes to have telephones, Ms. Barsanti continued to try an reach Petitioner. She eventually contacted Petitioner by phone, found she had moved, and sent her a new application to 920 Thomas Avenue, Panama City, Florida.

3. On October 23, 1998, Ms. Barsanti attempted to visit Ms. Cheesmon at her new home. It was only then that she noticed that Ms. Cheesmon's address had changed. She obtained directions to the new home, and went there to discuss with Ms. Cheesmon licensing her home as a family day care home.

4. During this visit, Ms. Barsanti reminded Ms. Cheesmon that it was the home and not the operator which was licensed or registered; and, therefore, the Department had to be notified whenever the operator of a family day care home changed residence.

5. Ms. Barsanti discussed with Ms. Cheesmon during this meeting that Ms. Cheesmon would have to procure a written statement from the landlord approving the use of the property as a family day care home.

6. The facts reveal a mix up between the Petitioner and the investigator regarding almost every aspect of Petitioner's application. As both women endeavored to perfect the application, more and more things arose which needed to be done. All of this occurred under circumstances in which the Petitioner's income was reduced because she had quit her job to care for children.

7. Ms. Cheesmon filed her application and a letter which purported to be from her landlord giving Ms. Cheesmon permission to operate a family day care home on the property.

8. Ms. Barsanti received an anonymous letter alleging the permission letter was a forgery. After being confronted by Ms. Barsanti Ms. Cheesmon admitted that she had forged the permission letter.

9. Ms. Cheesmon testified that she forged the letter which she gave to Ms. Barsanti in order to get the application processed and obtain insurance which the landlord required as a condition for approval.

10. The landlord did not disapprove of the child care activity. The landlord wanted insurance to hold her blameless. The Petitioner needed approval by the Department to obtain

insurance. Petitioner's forgery was not so much a false statement of the landlord's position, as an improper means to accomplish what the landlord wanted.

11. By the time of hearing, the Petitioner had moved back to her original address into property which she does not rent.

CONCLUSIONS OF LAW

12. The Division of Administrative Hearings has jurisdiction over the parties and subject matter in this case. Section 120.57(1), Florida Statutes.

13. If the operator of a family day care home leases the residence in which she runs the facility, written proof of the consent of the landlord to that use of the property must be provided before the facility may be licensed. Rule 65C-20.009(1)(a), Florida Administrative Code.

14. Ms. Cheesmon forged the permission letter to the Department. Ms. Cheesmon never obtained the landlord's consent for the leased site. The issue is not bad character, but the failure of the Petitioner to meet the rule's requirements.

15. The application at issue has been made moot by the passage of time. The Petitioner is now back in her original house, and there is no landlord. Therefore, the pending application is moot.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law set forth herein, it is

RECOMMENDED:

That the Department enter a final order which would deny the current application as moot.

DONE AND ENTERED this 14th day of June, 1999, in Tallahassee, Leon County, Florida.

STEPHEN F. DEAN
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 14th day of June, 1999.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.