

8-21-00

Claude A. AT

RD

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

BARBARA JOHNSON d/b/a
JOHNSON GROUP HOME

Petitioner,

v.

DEPARTMENT OF CHILDREN
AND FAMILIES,
(DISTRICT 15)

Respondent.

CASE NO. 00-1953
RENDITION NO. DCF-00-~~399~~-FO
(Nonrenewal of Licensure or Certification)

FILED
DEC 12 MID:54
ADMINISTRATIVE
HEARINGS

FILED

DEC 08 2000

DCF Department Clerk

**FINAL ORDER ADOPTING RECOMMENDED ORDER,
DENYING RENEWAL OF LICENSE TO PROVIDE RESIDENTIAL SERVICES FOR
PERSONS WITH DEVELOPMENTAL DISABILITIES, AND
REJECTING CONCLUSION OF LAW REGARDING BURDEN OF PROOF
IN LICENSURE RENEWAL CASES**

THIS CAUSE is before me as the result of a Recommended Order that was issued by an Administrative Law Judge (ALJ) who had been assigned to hear the case by the Division of Administrative Hearings. The Administrative Law Judge agreed with the district's decision to deny the renewal of Ms. Johnson's license to operate a group home for persons with developmental disabilities. The Recommended Order is attached to and incorporated herein by reference. I adopt its findings of fact, and I accept paragraph 12 and paragraphs 14-26 of its conclusions of law. I reject paragraph 13.

In paragraph 13 the ALJ incorrectly maintains that the Department must prove, by clear and convincing evidence, the allegations it makes against an applicant who seeks renewal of a license that is about to expire. That standard of proof does not apply because the decision to deny the application did not constitute discipline or revocation. Department of Banking and

Finance, Division of Securities and Investor Protection v. Osborne Stern and Company, 670 So.2d 932 (Fla. 1996).

In the instant case, district employees testified that their inspection of the licensed premises revealed numerous sanitation and safety violations of Rule 65B-6.010, Florida Administrative Code, including a failure on Ms. Johnson's part to report the fact that a resident had been hospitalized. The ALJ credited that testimony, which constituted competent substantial evidence to show that the district's denial was not an abuse of discretion. Id.

It is hereby **ORDERED** that licensure renewal is **denied** in Case No. 00-1953.

DONE and ORDERED this 6th day of December, 2000, in Tallahassee, Leon County, Florida.


KATHLEEN A. KEARNEY, Secretary
Department of Children and Families

Copies of this Final Order are being furnished to:

Claude B. Arrington
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Laurel Hopper
District 15 Legal Counsel
Department of Children and Families
337 North 4th Street, Suite A
Fort Pierce, FL 34950

Barbara Johnson
c/o Curtis Randolph, Sr. Esquire
850 South 21st Street
Fort Pierce, FL 34950

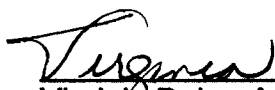
Susan Dickerson, Program Initiatives
Developmental Services
Department of Children and Family Services
1317 Winewood Blvd., Bldg. 3
Tallahassee, FL 32399-0700

NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. The Notices must be filed within thirty (30) days of the rendition of this final order.¹

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and copy of the foregoing **FINAL ORDER** has been sent by U.S. Mail or by hand delivery to each of the persons named above on this 8 day of December 2000.



Virginia Daire, Agency Clerk
Department of Children and Families
1317 Winewood Blvd. Bldg. 2 Room 204X
Tallahassee, FL 32399-0700

¹ The date of the "rendition" of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the thirtieth day after that date.