
BECKY VALENTINE,

Petitioner,

DECISION

vs.

**STATE OF WISCONSIN,
DEPARTMENT OF CHILDREN &
FAMILIES,**Case No. **2010CV000205**Respondent.

The court, after careful consideration, will remand the case to the Department of Children & Families (DCF). In support of this decision, the court relies upon the following findings of fact:

FINDINGS OF FACT

The court, based upon the decisions of Michael O'Brien, the Administrative Law Judge, on June 17, 2010 and Ron Hunt, the Administrator of DCF, on February 8, 2010.

1. Becky Valentine was licensed to operate Little bear Day Care in La Crosse, Wisconsin, and received reimbursement for some of the children in her care from the Wisconsin Shares Child Care Subsidy Program.
2. On September 26, 2009, DCF notified Ms. Valentine that it would suspend her child care payments under the Wisconsin Shares program because there was a reasonable suspicion that she violated a provision of the program.
3. On December 1, 2009, Michael O'Brien, the Administrative Law Judge, issued a ruling in favor of Ms. Valentine.

4. On February 8, 2010, DCF revoked Ms. Valentine's child care license because she violated the rules of the program.
5. On February 18, 2010, Ms. Valentine filed an appeal to the circuit court asking the court to reverse DCF's decision.

CONCLUSIONS OF LAW

Both parties are in agreement with the Administrative Law Judge, Michael O'Brien, that DCF's decision to revoke Ms. Valentine's child care license was seriously flawed. The only real issue in this case is whether the court should remand the case or reverse DCF's decision.

According to Wis. Stat. § 227.57(8):

The court shall reverse or remand the case to the agency if it finds that the agency's exercise of discretion is outside the range of discretion delegated to the agency by law; is inconsistent with an agency rule, an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained to the satisfaction of the court by the agency; or is otherwise in violation of a constitutional or statutory provision; but the court shall not substitute its judgment for that of the agency on an issue of discretion.

DCF is arguing that it exercised proper discretion in making its determination. DCF states that it is substantively correct even though it may be procedurally incorrect. While the court will not make a determination on the substantive issue, it is clear that the mistake that DCF made is purely a procedural one. The failure to make findings of fact, conclusions of law, or even give an explanation as to how it reached the result it did does not fit into any of the allowable rationales for a reversal. This view also is in line with case law on the subject. See *Waste Management of Wisconsin, Inc. v. State Dept. of Natural Resources*, 145 Wis.2d 495, 427

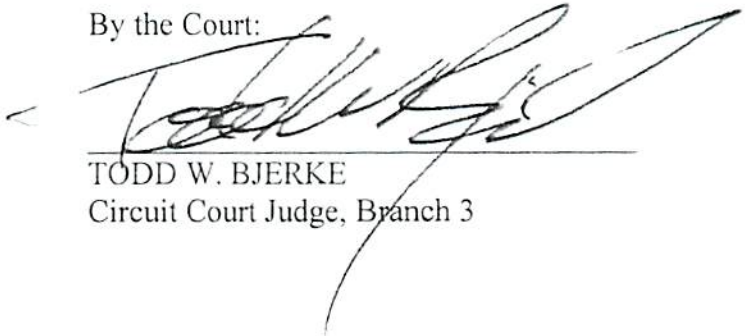
N.W.2d 404 (Ct. App., 1988) (Stating “The DNR failed to make findings of fact and conclusions of law as required by sec. 227.47, Stats. As a result, the trial court was unable to review the merits of the DNR's proposed modifications. Accordingly, we conclude that the trial court properly remanded the matter to the DNR to make findings of fact and conclusions of law.”).

DECISION

Based upon the Findings of Fact and Conclusions of Law set forth herein, the court hereby REMANDS the Department of Children & Families's decision and orders the Department of Children & Families to comply with Wis. Stat. § 227.46(2) when issuing a ruling.

Dated: November 17, 2010

By the Court:



TODD W. BJERKE
Circuit Court Judge, Branch 3