

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JENNIFER BRUNSDON,
Charging Party,

HRB CASE NO. 0210643

-v-

REMAND ORDER

MOUNTAINVIEW MEDICAL CENTER,
Respondent

Charging Party, Jennifer Brunson (Brunson), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Brunson's allegations that Respondent, Mountainview Medical Center, unlawfully discriminated against Brunson. The Department issued a Notice of Dismissal. Brunson filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 22, 2022. Philip A. Hohenlohe appeared and argued on behalf of Brunson. Jean Faure appeared and argued on behalf of Mountainview Medical Center.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the Department abused its discretion in failing to fully investigate whether the Respondent was seeking a replacement physician, failing to request an unredacted feasibility study, and relying on a heavily redacted report in determining no discrimination or retaliation occurred. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. See § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that Jennifer Brunsdon's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 28th day of July 2022.



Peter M. Damrow, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 28th day of July 2022.

Philip A. Hohenlohe
Law Office of Philip Hohenlohe, PLLC
P.O. Box 1959
Helena, MT 59624

Jean Faure
Faure Holden Attorneys at Law, P.C.
P.O. Box 2466
Great Falls, MT 59403



Annah Howard, Legal Secretary
Montana Human Rights Bureau