

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

GREG GARRIGUES,
Charging Party,

-v-

W.L. GORE & ASSOCIATES, INC.,
Respondent

HRB CASE NO. 0210313

REMAND ORDER

Charging Party, Greg Garrigues (Garrigues), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of age. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Garrigues' allegations that Respondent, W.L. Gore & Associates, Inc., unlawfully discriminated against Garrigues. The Department issued a Notice of Dismissal. Garrigues filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 19, 2021. Veronica A. Procter appeared and argued on behalf of Garrigues. Elizabeth A. Schallop Call appeared and argued on behalf of W.L. Gore & Associates, Inc..

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard, including the follow analyses:

- a. Did the investigator act arbitrarily, without conscientious judgment? I.e., was the decision random, unreasonable, or seemingly not based on the existing record?
- b. Did investigator's findings of fact exceed the bounds of reason resulting in a substantial injustice?
- c. Did the investigator correctly apply the law to the facts of the case?

Section 49-2-511(2), MCA, Admin. R. Mont. 24.9.121.

After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. 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 Greg Garrigues's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 24th day of November, 2021.



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 24th day of November, 2021.

Veronica A. Procter
Procter Law, PLLC
P.O. Box 782
Billings, MT 59103

Elizabeth A. Schallop Call
Steptoe & Johnson, LLP
1330 Connecticut Avenue, NW
Washington, DC 20036



Annah Howard, Legal Secretary
Montana Human Rights Bureau