

**BEFORE THE MONTANA DEPARTMENT
OF LABOR AND INDUSTRY**

_____)	
Kimberly Merwin,)	Human Rights Act Case No. 9801008416
)	
Charging Party,)	<i>Final Agency Decision and</i>
)	<i>Notice of Time for Appeal</i>
versus)	
)	
Carl Zarndt , formerly doing business as)	
The Donut Hole)	
)	
Respondent.)	
_____)	

Charging party filed a complaint with the Department of Labor and Industry on December 22, 1997. She alleged that the respondent discriminated against her on the basis of her sex (female) by subjecting her to a co-employee's unwanted sexual advances and forcing her to resign on August 21, 1997.

This contested case hearing convened on December 21, 1998, in Billings, Yellowstone County, Montana. Kimberly Merwin did not appear and was not present. Carl Zarndt was present with his attorney, Roy W. Johnson. The Department of Labor and Industry (requested by the hearing examiner to participate) notified the hearing examiner on December 18, 1998 (and the hearing examiner notified the parties) that it would not appear and participate.

The charging party having failed to appear for hearing, the hearing examiner now dismisses this contested case and this complaint of discrimination.

Dated: December 21, 1998.

Terry Spear, Hearing Examiner
Montana Department of Labor and Industry

Certificate of Service

Copies of this decision were served by first class mail, postage prepaid, on:

Kimberly Merwin
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Baker MT 59313

Roy W. Johnson
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Kevin Braun, Legal Bureau
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Kathy Helland, Bureau Chief
Human Rights Bureau
Department of Labor and Industry
P.O. Box 1728
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Signed this ____ day of _____, 199__.

Administrative Assistant

NOTICE OF TIME FOR APPEAL FROM THIS FINAL DECISION

This is the department's final decision in this contested case.

ALL SUBMISSIONS FILED BY ANY PARTY AFTER THIS NOTICE MUST INCLUDE THE ORIGINAL AND 6 COPIES OF THE ENTIRE SUBMISSION.

Any party dissatisfied with this order MUST FILE AN ORIGINAL NOTICE OF APPEAL WITHIN 10 BUSINESS DAYS OF RECEIPT OF THIS NOTICE with Terry Spear, Hearings Bureau, Department of Labor and Industry, P.O.Box 1728, Helena, Montana 59624. The notice of appeal is a submission--the original and six copies must be filed. At the same time, a copy of your notice of appeal must be filed with the Human Rights Commission, c/o Kathy Helland, Human Rights Bureau, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728, and with all other parties of record.

IF REVIEW OF THE HEARING TRANSCRIPT IS REQUIRED your notice of appeal MUST state that Commission review of the hearing transcript is required. You must arrange for transcription of the hearing record, and file with the Human Rights Commission the original and six copies of the completed hearing transcript. Contact Department staff as soon as possible (Sandy Duncan, 406-444-9583) to make arrangements to transcribe the hearing. Failure to arrange for timely preparation and filing of the transcript can limit a party's right to seek review, rejection or modification of any department finding of fact. See: 49-2-505(4) MCA, requiring that the Commission hear all appeals within 120 days of receipt of notice of appeal. You must pay for transcription of the record. If more than one party files a notice of appeal expressly noting a requirement of Commission review of the transcript, those parties may share equally in transcription costs.