

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

BERTHA KASSING,)	
CHARGING PARTY,)	
)	CASE NO. 0001009147
vs.)	
)	ORDER AFFIRMING
WAL MART,)	DISMISSAL
RESPONDENT.)	

The above-captioned matter came before the Montana Human Rights Commission on October 23, 2000. The matter was before the Commission for consideration of the charging party's objection to the notice of dismissal and notice of right to file civil action in district court.

After reviewing the record, the Commission finds that the Human Rights Bureau properly dismissed the matter. Although charging party stated a prima facie case of employment discrimination on account of disability because she was a qualified applicant with a ten-pound lifting restriction, the record supports the investigator's conclusion that respondent articulated legitimate non-discriminatory grounds for terminating her. Charging party's supervisors indicated that her job performance in the three positions through which she rotated was unsatisfactory. The Commission cannot conclude that issuing the notice of dismissal was an abuse of discretion. *Mont. Admin. R. 24.9.1714(3)*.

The parties are advised that the charging party has 90 days after receipt of this order to file a civil action in district court to seek appropriate relief. *Section 49-2-509(5), MCA*. If the charging party fails to file a civil action in district court within that 90 day period, the charging party's claims under the Human Rights Act as stated in the above-captioned complaint will be barred.

IT IS HEREBY ORDERED, that the charging party's objection is overruled and the notice of dismissal is affirmed.

Dated this _1st_ day of November, 2000.

Gloria "Patt" Etchart, Chair, Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the foregoing **Order Affirming Dismissal** was served on the following persons by U. S. Mail, postage prepaid on the 1st day of November, 2000.

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