

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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ALLISON CHAPMAN,	)	
Charging Party,	)	
	)	CASE NO. 0009009465
vs.	)	
	)	<b>ORDER AFFIRMING DISMISSAL</b>
PRICE RITE FOOD MART,	)	
Respondent.	)	

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The above-captioned matter came before the Montana Human Rights Commission (Commission) on September 20, 2001. The matter was before the Commission for consideration of the Charging Party’s objection to the dismissal of the complaint. Oral argument was not requested and the matter was considered on the record.

After reviewing the record, the Commission finds that the Human Rights Bureau properly dismissed the matter. The record shows that Charging Party is an individual with the disabilities of a brain injury, personality disorder and depression. However, the record supports the Investigator’s finding that Charging Party did not prove by a preponderance of the evidence that Respondent refused to hire her because of her disability, and instead hired a less qualified individual. The record shows that Charging Party did not state a prima facie case of employment discrimination based on disability, because the successful job applicant was also a member of a protected class (person with a learning disability). The record also supports the Investigator’s finding that Charging Party submitted her application after another person had been hired, therefore Charging Party was not considered for the open position and was not denied the position based upon her disabilities. The Investigator did not abuse her discretion when she issued a notice of dismissal. 24.9.1714(3), ARM. Accordingly, the notice of dismissal must be affirmed.

IT IS HEREBY ORDERED, that the Charging Party’s objection is unanimously overruled and the notice of dismissal is affirmed.

Dated this \_\_ day of October, 2001.

\_\_\_\_\_  
Gary Hindoien, 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 \_\_\_\_\_ day of October, 2001.

Allison Chapman  
PO Box 206  
Geraldine MT 59446

Price Rite Food Mart  
Store Manager  
PO Box 188  
Fort Benton, MT 59442

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Farah Davidson, Human Rights Bureau