

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

ANNA STIPP,)	
CHARGING PARTY,)	
)	CASE NO. 9901008827
vs.)	
)	ORDER ADOPTING HEARING
FRONTIER PERSONAL HEALTH CARE)	EXAMINER'S DECISION AS
CENTER,)	FINAL ORDER
RESPONDENT.)	

The above-captioned matter came before the Montana Human Rights Commission (Commission) on January 17, 2001. The matter was before the Commission for consideration of respondent's appeal from the Final Agency Decision dated September 18, 2000. Appearing before the Commission were Robert L. Jovick, attorney for the respondent, Frontier Personal Health Care Center (Frontier), and Tim Kelly, attorney for the charging party, Anna Stipp (Anna).

After consideration of the record and the arguments of the parties, the Commission agrees with the Hearing Examiner's conclusion that Frontier unlawfully discriminated in employment against Stipp because of her sex when Marvin Shiver (Shiver), Frontier's administrator, terminated her. Stipp was employed as maintenance supervisor at respondent's nursing care facility when she was fired. Frontier hired a less experienced male at a higher rate of pay to replace her. In a sworn statement, that was introduced as direct evidence of discriminatory motive, Shiver admitted that he was motivated to fire Stipp because he preferred to have a male maintenance supervisor working at Frontier. This sworn statement was credible evidence of unlawful motive that respondent was unable to rebut by a preponderance of the evidence. *24.9.610(5) A.R.M.* Accordingly, the Commission finds that the Hearing Examiner's findings of fact were supported by competent, credible and substantial evidence and his conclusions of law were correct.

The Commission also agrees that the Hearing Examiner's award of monetary and affirmative relief is proper. The department can order "any reasonable measure to correct the discriminatory practice and to rectify any harm, pecuniary or otherwise..." *Section 49-2-506(1)(b), MCA*. Frontier must pay Stipp \$13,294.61 for lost wages through September 17, 2000; \$1,809.68 in pre-judgment interest; \$15,000 for her emotional distress; and post-judgment interest that has accrued by law. The Hearing Examiner also ordered Frontier to reinstate Stipp as maintenance manager of Frontier. (Final Agency Decision, Page 18, Order, Paragraph 3) The Hearing Examiner's order of monetary relief and his order that Stipp be reinstated is consistent with Montana law. *Carson v. City of Billings, Commission Order, Case No. 9801008365(March, 2000); Vainio v. Brookshire, 258 Mont. 273(1993)*.

IT IS HEREBY ORDERED, that the final agency decision finding that respondent unlawfully discriminated against charging party and awarding monetary and affirmative relief to charging party is adopted as the Commission's final order.

Dated this ___ day of February, 2001

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 Adopting Hearing Examiner's Decision as Final Order** was served on the following persons by U. S. Mail, postage prepaid on the _____ day of February, 2001.

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