

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JEANNINE BROWN,)	
)	
Charging Party)	Cause No. 0011009575
)	
vs.)	ORDER AFFIRMING IN PART
)	AND AMENDING IN PART
)	FINAL AGENCY DECISION
FEDERAL EXPRESS CORPORATION)	
)	
Respondents.)	

The above-captioned matter came before the Montana Human Rights Commission (Commission) on September 20, 2002. The Commission considered both Charging Party's and Respondent's appeal of the Human Rights Bureau's Final Agency Decision. Oral argument was requested. Appearing before the Commission were Thomas Hattersley, attorney for Respondent, and Andrew Huppert, attorney for Charging Party.

The Final Agency Decision issued June 6, 2002 concluded that Respondent had illegally discriminated against Charging Party on the basis of her disability.

After review and consideration of the entire record, the Commission affirms in part and amends in part the Human Rights Bureau's Final Agency Decision. The Commission affirms the Final Agency Decision's finding of discrimination. However, the Commission determines that the Conclusion of Law ¶. 4, is incorrect and therefore, amends the decision accordingly.

The Commission will uphold conclusions of law if they are correct. *Steer, Inc. v. Department of Revenue*, 245 Mont. 470, 474, 803 P.2d 601, 603 (1990). The hearing officer incorrectly mandated Federal Express Corporation to revise its policy such that it could not "disregard a decision by a station manager responsible for direct supervision of the employee or prospective employee that the disability can be accommodated in a the particular instance." Therefore, the Commission strikes the mandated affirmative relief as laid out in Conclusion of Law, No. 4. Correspondingly, the Commission strikes No. 2 of the Order in the Final Agency Decision.

Having affirmed in part and amended in part the Final Agency Decision, the Commission hereby overrules the cross-appeal of the Charging Party on damages.

A party may seek judicial review of this order in a district court. 2-4-702(2), MCA. A party seeking judicial review must appeal within 30 days of service of this order.

Dated this _____ day of September 2002

Mr. Gary Hindoiien, Chair
Montana Human Rights Commission

CERTIFICATE OF SERVICE

The undersign employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on September _____, 2002.

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