

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

GREGORY JOHNSON,)	
)	
Charging Party)	Cause No. 0031010435
)	
vs.)	ORDER AFFIRMING
)	NOTICE OF DISMISSAL
)	
QWEST DEX,)	
)	
Respondent.)	

On August 21, 2003, the Human Rights Bureau served its Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. On September 4, 2003, Gregory Johnson (Charging Party) filed an objection with Montana's Human Rights Commission (Commission). Charging Party initially requested oral argument, but waived this request before the scheduled Commission hearing. Qwest Dex (Respondent) also waived its right to provide oral argument. The Commission considered the matter on the record on November 20, 2003.

In the Final Investigative Report, the Human Rights Bureau (HRB) Investigator determined a preponderance of the evidence did not support Charging Party's assertion that Respondent had discriminated on the basis of sex (male) by treating him less favorably than female co-workers.

In his brief on appeal, Charging Party asserted: (1) the investigator failed to consider or analyze the objective data on its merits, (2) the factual findings of the investigator failed to conform with the evidentiary standards set forth in the Montana Administrative Procedures Act (MAPA), and (3) the investigator failed to look into the historical treatment of men versus women by the Respondent. In response, Respondent argued the Final Investigative Report followed the procedural requirements of the applicable law. Respondent's brief points out the HRB investigation considered relevant comparative information. Respondent further asserted the discretionary policies did not violate federal discrimination laws. And, finally the Respondent contends that even if the HRB investigation was flawed, HRB's decision to issue a Notice of Dismissal does not create a "substantial injustice."

After careful and due consideration of the record, the Commission concludes this finding is supported by the record and, therefore, there was no abuse of discretion by the Human Rights Bureau in its issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*

Charging Party will have 90 days after the receipt of this order to petition a district court in the district where the alleged violation occurred for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) and Admin. R. Mont. 24.9.1714(5)* If Charging Party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

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

Dated this _____ day of December 2003

Mr. Gary Hindoien, 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 December____, 2003.

GREGORY JOHNSON
2505 HIGHWAY 212 SOUTH
LAUREL MT 59044

TIMOTHY KELLY
ATTORNEY AT LAW
PO BOX 65
EMIGRANT MT 59027

MARY GALLAGHER
ATTORNEY AT LAW
PO BOX 1797
MISSOULA MT 59806

MYKELANN WISE
QWEST SERVICE
1801 CALIFORNIA STREET SUITE 38
DENVER CO 80202-1984

REBECCA ACEVEDO
QWEST SERVICE
1801 CALIFORNIA STREET SUITE 5100
DENVER CO 80202-2651

MONTANA CT CORPORATION SYSTEM
40 WEST LAWRENCE
HELENA MT 59601

OLIVER GOE
BROWNING KALECZYC BERRY & HOVEN PC
PO BOX 1697
HELENA MT 59624

MARIEKE BECK
DEPARTMENT OF LABOR AND INDUSRTY
OFFICE OF LEGAL SERVICES
PO BOX 1728
HELENA MT 59624

Montana Human Rights Bureau