

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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DOROTHY RUDOLF,	)	
	)	
Charging Party	)	Cause No. 0031010201
	)	
vs.	)	<b>ORDER REVERSING</b>
	)	<b>NOTICE OF DISMISSAL</b>
	)	
ELKS LODGE # 394	)	
	)	
Respondent.	)	

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The above-captioned matter came before the Montana Human Rights Commission (Commission) on May 30, 2003. The Commission considered Charging Party's objection to the Notice of Dismissal of her complaint. There was no request for oral arguments. The Commission considered the matter on the existing record and subsequent briefs. *Admin. R. Mont. 24.9.1714(2)*

After due consideration, the Commission concludes that the Human Rights Bureau improperly dismissed the matter. The Commission finds that the record does not sufficiently support a conclusion that Charging Party was unable to establish by a preponderance of the evidence that she had been subject to discrimination based on age. *See Mont. Code Ann. § 49-2-504(1)(a)* The record contains sufficient evidence to show that Charging Party established a prima facie case of age discrimination, which shifted the burden on to the employer to establish a legitimate non-discriminatory reason for its actions. *Admin. R. Mont. 24.9.610(3)* A review of the record show that the employer's assertion that Charging Party was discharged because she was not "cross-trained" is not sufficiently supported in the record.

Consequently, the Commission concludes there was an abuse of discretion by the Human Rights Bureau in its issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)* This matter is remanded to the Department of Labor and Industry.

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

Dated this \_\_\_\_\_ day of June 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 June \_\_\_\_, 2003.

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