

**BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA**

NORMA WEVERS,

Charging Party,

-v-

HERBERGER'S,

Respondent.

Cause No. 0051011186

**ORDER SUSTAINING
OBJECTION**

On February 14, 2005, the Human Rights Bureau issued a Final Investigative Report and corresponding Notice of Dismissal and Notice of Right to Sue in the above-captioned matter. Charging Party, Norma Wevers (Wevers), filed objections with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 17, 2005.

In the Final Investigative Report (FIR), the Human Rights Bureau Investigator determined a preponderance of the evidence did not support Wever's assertion that her former employer, Respondent Herberger's, had unlawfully discriminated because of race.

After careful and due consideration, the Commission concluded the Human Rights Bureau abused its discretion in the issuance of a Notice of Dismissal. *Admin. R. Mont. 24.9.1714(3)*. In discussion, the Commission noted that the investigator relied heavily on Respondent Herberger's assertion that the person making the decision to terminate Charging Party Wevers was off-site and unaware of Wever's race. The Commission noted that although the Respondent's Human Resource person was off-

site, the fact remains that persons involved in the incident and the person handling the investigation were aware of Wever's race.

Therefore, IT IS HEREBY ORDERED, that Charging Party's objection is **sustained**. When the Commission sustains the objections to the dismissal of a complaint, it will reopen the case by remanding it to the department. *Admin. R. Mont. 24.9.1714(4)(b)*. A party may ask a district court to review a decision of the Commission to remand a contested case to the department. *Admin. R. Mont. 24.9.1714(7)*

DATED this ____ day of May 2005.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned 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 May ____ 2005.

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