

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

Case No.: 0071012102

TAMARA COPLEY,

Charging Party,

-v-

FRANK DVORAK d/b/a MAJESTIC COVE
PARK,

Respondent.

**ORDER AFFIRMING
AGENCY DECISION**

Tamara Copley (Copley) filed a complaint of discrimination against Frank Dvorak d/b/a Majestic Cove Park (Dvorak) with the Department of Labor and Industry. The Hearings Bureau (Bureau) held a contested case hearing pursuant to § 49-2-505, MCA. Following the hearing, the hearing officer determined Copley proved that Dvorak discriminated against her when he sexually harassed her at work. The hearing officer also determined that Dvorak retaliated against Copley when he filed an unfounded criminal complaint against her accusing her of stealing money by writing checks to herself. Finally, the hearing officer determined that Copley failed to prove she was discharged from employment based on her gender. The hearing officer awarded Copley \$30,000 in emotional distress damages.

Dvorak filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 19, 2008. Randy Laedeke appeared and argued on behalf of Dvorak. Greg Tomicich appeared and argued on behalf of Copley.

Dvorak argued that the hearing officer was incorrect in concluding Copley proved all the elements of a sex discrimination claim. He also argued that the hearing officer

was clearly erroneous in finding that Dvorak retaliated against Copley and in finding that Dvorak was Copley's sole source of income. Finally, Dvorak argued Copley failed to prove she was entitled to the damages she was awarded. Copley argued the hearing officers' findings and conclusions were correct.

After careful and due consideration, the Commission concludes the Bureau's decision in this matter is supported by competent substantial evidence and the conclusions of law are correct. The Commission **affirms** the Bureau's decision and hereby adopts and incorporates the decision in its entirety.

A person who has exhausted all administrative remedies available within an agency and who is aggrieved by a final agency decision in a contested case is entitled to file a petition for judicial review within 30 days after service of the final agency decision. Mont. Code Ann. § 2-4-702. The petition must be filed in the district where the petitioner resides or has the petitioner's principal place of business, or where the agency maintains its principal office.

DATED this ____ day of December, 2008.

Chair Ryan C. Rusche
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 December _____, 2008.

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