

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

LINNDA DUMONT,

Charging Party,

-v-

PABLO WATER AND SEWER DISTRICT,

Respondent.

Case No.: 0071012513

**ORDER AFFIRMING
AGENCY DECISION**

Linnda Dumont (Dumont) filed a complaint of discrimination against Pablo Water and Sewer District (District) with the Department of Labor and Industry alleging she was harassed due to a sexually hostile work environment. The Hearings Bureau (Bureau) held a contested case hearing pursuant to § 49-2-505, MCA. Following the hearing, the hearing officer determined that the District did not discriminate against Dumont because the employee who was harassing Dumont, Walter Gainan (Gainan), was equally hostile to people in the workplace regardless of gender. The hearing officer also determined that by the time Dumont made a sexual harassment claim, Gainan had left his employment.

Dumont filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on January 26, 2009. Cynthia Walker appeared and argued on behalf of Dumont. Maureen Lennon appeared and argued on behalf of the District.

Dumont argued the hearing officer's findings were clearly erroneous. She asserted the evidence showed Gainan's actions were different in character and more severe toward her because she is a woman. Dumont also argued it was unclear Gainan had actually left the District's employment, so the District should have done something

internally to investigate her claim of sexual harassment. The District argued that because Dumont was Gainan's supervisor, she should have terminated his employment if there was a problem. The District also asserted the hearing officer's findings of fact were based on competent substantial evidence and that his conclusions of law 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 February, 2009.

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 February ____, 2009.

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