

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MURAT KALINYAPRAK,

Charging Party,

-v-

CITY OF POLSON

Respondent,

Case No. 0095013637

ORDER

Charging Party, Murat Kalinyaprak, (Kalinyaprak) filed a complaint with the Human Rights Bureau, Department of Labor and Industry (Department) on March 31, 2009, which alleged discrimination in government services by the City of Polson on the basis of national origin and further alleged retaliation by the City for Kalinyaprak's human rights activity.

Following an informal investigation, the Department determined that a preponderance of the evidence did not support Kalinyaprak's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Kalinyaprak filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 17, 2010. Kalinyaprak, appeared and argued on his own behalf. John Haffey, attorney, appeared and argued on behalf of the City of Polson. The Commission sustained Kalinyaprak's objection and remanded the case to the Hearings Bureau for a contested case hearing.

The matter then went before the Hearings Bureau of the Department of Labor and Industry, which held a hearing pursuant to § 49-2-505, MCA. The hearing officer issued a decision on March 23, 2011. The hearing officer determined that the City of Polson neither illegally discriminated against Kalinyaprak because of his national origin;

nor illegally retaliated against Kalinyaprak for engaging in a protected activity when the City enforced the “3-minute” rule, as adopted by the City Ordinance 613.

Kalinyaprak timely filed an appeal with the Commission, which considered the hearing officer decision on July 20, 2011. Kalinyaprak, appeared and argued on his own behalf. John Haffey, attorney, appeared and argued on behalf of the City of Polson.

After careful and due consideration, the majority of the Commission concludes, by a 4 to 1 vote, that the hearing officer’s decision in this matter is supported by substantial evidence in the record and the conclusions of law are correct. Therefore, the Commission affirms the decision of the Hearings Bureau 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 decision of the Human Rights Commission, following a contested case proceeding, is entitled to file a petition for judicial review within 30 days after service of the Commission’s decision. *Sections 49-2-505(9) and 2-4-702, MCA*. 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.

IT IS HEREBY ORDERED, that Murat Kalinyaprak’s appeal is **denied**. The Commission affirms the decision of the Hearings Bureau and hereby adopts and incorporates the decision in its entirety as the Final Agency Decision.

DATED this 1st day of August 2011.

L.M. Minich, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 1st day of August 2011.

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