

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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RONIS BOLLINGER,  
Charging Party,

HRB CASE NO. 0131016262

-v-

REMAND ORDER

BILLINGS CLINIC,  
Respondent

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Charging Party, Ronis Bollinger (Bollinger), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Bollinger's allegations that Respondent, Billings Clinic, unlawfully discriminated against Bollinger. The Department issued a Notice of Dismissal. Bollinger filed an objection with the Montana Human Rights Commission (Commission). The parties briefed the matter and requested oral argument.

The Commission considered the matter at its next regularly scheduled meeting, on March 14, 2014. Commission member Hayes recused herself from the case, and did not participate in either the oral argument or deliberations upon the matter. Commissioner Wolken was out of town during the March 14, 2014, meeting, but due to technical difficulties with the telephone lines, was not able to participate in oral argument or consideration of the matter. Counsel for Bollinger was not present at the oral argument. Due in part to the technical difficulties with the telephone lines, Bollinger's counsel, Teresa McCann O'Connor, was apparently unable to listen to oral argument. However, Ms. O'Connor expressly stated that her client, Ms. Bollinger was prepared, ready, and able to present oral argument on her own behalf. Ronis Bollinger appeared in person and argued on her own behalf. Edward Butler appeared personally and argued on behalf of Billings Clinic. Mr. Butler did not object to Ms. Bollinger's participation, but noted

that he reserved the right to object to any matters that Ms. Bollinger might attempt to raise that would not be proper oral argument.

The parties were each allowed a total of 10 minutes to provide oral argument. Following the oral argument of the parties, the Commission asked the parties a few questions related to the issues pending before the Commission. After hearing from the parties, the Commission then deliberated on the issues before it in the case.

As a preliminary matter, the Commission first considered the Motion to Strike filed by Respondent Billings Clinic, regarding four documents attached to Bollinger's Reply Brief and the arguments made with respect to those four documents. Following discussion by members of the Commission, the Commission voted to sustain the Motion to Strike filed by Billings Clinic, on the grounds that the charging party did not show good cause as to why the additional documents were not offered earlier.

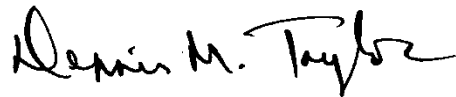
The Commission then considered the arguments of the parties on Bollinger's Objection to the Notice of Dismissal. The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. See: section 49-2-511(2), MCA. After careful consideration, the Commission concluded the determination of the Department to dismiss the complaint in this case was an abuse of discretion because the Commission believed the facts showed the termination of Ms. Bollinger was retaliation.

The Commission sustains the objection and the case is hereby remanded for hearing to the Hearings Bureau pursuant to § 49-2-505, MCA.

Nothing in this order precludes the parties from engaging in the mediation or other settlement negotiations that would normally occur if the Department's investigative report had found cause. See § 49-2-504(2)(b), MCA.

IT IS HEREBY ORDERED, that Ronis Bollinger's objection is **sustained**. The Commission reopens and remands the case to the Hearings Bureau for hearing.

DATED this 18th day of March, 2014.

A handwritten signature in black ink that reads "Dennis M. Taylor". The signature is written in a cursive style with a horizontal line underneath it.

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Dennis M. Taylor, 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 18th day of March, 2014.

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Annah Smith, Legal Secretary  
Montana Human Rights Bureau