

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

TERESA FLANAGAN & SHELLEY
MORROW,
Charging Parties,

HRB CASE NO.01310156502 &
0131016506

-v-

FINAL AGENCY DECISION

CITY OF BELGRADE,
Respondent.

Charging Parties, Teresa Flanagan and Shelley Morrow, filed a complaint with the Department of Labor and Industry (Department), which alleged unlawful discrimination in employment on the basis of sex and retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence supported Flanagan and Morrow's allegations. The case went before the Office of Administrative Hearings of the Department of Labor and Industry, which held a contested case hearing, pursuant to § 49-2-505, MCA. The hearings officer issued a Decision on May 27, 2015. The hearings officer determined that the Charging Parties had failed to prove that Respondent City of Belgrade had discriminated against them illegally or retaliated against them. The matter was therefore dismissed with prejudice.

Charging Parties filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 18, 2015. Jennifer Dwyer, attorney, appeared and presented oral argument on behalf of Teresa Flanagan and Shelley Morrow. Richard Ramler, attorney, appeared and presented oral argument on behalf of the City of Belgrade.

STANDARD OF REVIEW

The Commission may reject or modify the conclusions of law and interpretations of administrative rules in the hearing officer's decision but may not reject or modify the findings of

fact unless the Commission first reviews the complete record and states with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. *Admin. Rules of Mont. 24.9.123(4)*. A factual finding is clearly erroneous if it is not supported by substantial evidence in the record, if the fact-finder misapprehended the effect of the evidence, or if a review of the record leaves the Commission with a definite and firm conviction that a mistake has been made. *Denke v. Shoemaker*, 2008 MT 418, ¶ 39, 347 Mont. 322, ¶ 39, 198 P.3rd 284, ¶ 39. The Commission reviews conclusions of law to determine whether the hearing officer's interpretation and application of the law is correct. *See, Denke*, 39.

DISCUSSION

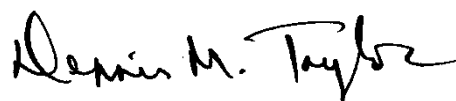
After careful consideration of the complete record and the argument presented by the parties, the Commission determines that the hearing officer's determination should be affirmed in its entirety. The Commission's review did not discover error in the hearing officer's findings of facts or conclusions of law.

ORDER

IT IS HEREBY ORDERED, that the appeal of Teresa Flanagan and Shelley Morrow is overruled and that the Hearing Officer Decision is AFFIRMED.

Either party may petition the district court for judicial review of the Final Agency Decision. *Sections 2-4-702 and 49-2-505, MCA*. This review must be requested within 30 days of the date of this order. A party must promptly serve copies of a petition for judicial review upon the Human Rights Commission and all parties of record. *Section 2-4-702(2), MCA*.

DATED this 29th day of September, 2015.



Dennis M. Taylor, Chair
Montana 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 29th day of September, 2015.

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