

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

JESSICA CRABB,
Charging Party,

HRB CASE NO. 0180152

-v-

REMAND ORDER

COVERED WAGON MOBILE HOME PARK,
Respondent

Charging Party, Jessica Crabb (Crabb), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in public accommodation on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Crabb's allegations that Respondent, Covered Wagon Mobile Home Park, unlawfully discriminated against Crabb. The Department issued a Notice of Dismissal. Crabb filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 20, 2018. No oral argument was requested for this hearing. All members of the Commission present stated they had each reviewed the entire record submitted to the Commission.

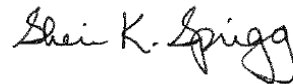
The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. The investigator committed an abuse of discretion by failing to correctly identify the accommodation actually requested by Crabb in December 2017 was not for the Respondent to plow Crabb's driveway for her (which is what Respondent thought was being requested), but that the Respondent plow the common areas (the street) in a manner that did not leave a large snow berm in the street directly in front of Crabb's driveway. By misidentifying the requested accommodation, the investigator's committed an abuse of discretion by failing to

properly analyze the second element of Crabb's prima facie case. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings 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 Jessica Crabb's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 20th day of August, 2018.



Sheri Sprigg, 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 20th day of August, 2018.

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Annah Howard, Legal Secretary
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