

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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DANIELLE JONES,  
Charging Party,

-v-

ALL STAR PAINTING, INC.  
and NORMAN HODGES,  
Respondent.

HRB CASE NO.0151017226

FINAL AGENCY DECISION

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Charging Party, Danielle Jones, filed a complaint with the Department of Labor and Industry (Department), which alleged unlawful discrimination in employment on the basis of sex. Following an informal investigation, the Department determined that a preponderance of the evidence supported Jones'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 March 21, 2016. The hearings officer determined that Charging Party Danielle Jones had failed to prove that Respondents All Star Painting, Inc. or Norman Hodges had discriminated against her.

Charging Party filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 22, 2016. Ryan R. Shaffer, attorney, appeared and presented oral argument on behalf of Jones. T. Thomas Singer, attorney, appeared and presented oral argument on behalf of All Star Painting, Inc. and Norman Hodges.

**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.3<sup>rd</sup> 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**

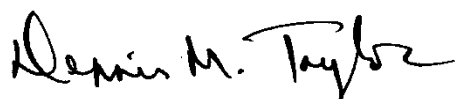
After careful consideration of the complete record and the argument presented by the parties, the Commission finds that the factual determinations made by the hearing officer are supported by substantial evidence in the record. While there may be disputes as to facts, hearing officers are entitled to deference as to credibility determinations, and no argument sufficient to overcome that deference was presented. Based on those facts, the conclusions of law of the hearing officer were correct, and the hearing officer decision is affirmed in its entirety.

### **ORDER**

IT IS HEREBY ORDERED, that the appeal of Danielle Jones is overruled and the hearing officer decision is affirmed in its entirety.

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 22nd day of August, 2016.



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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 22nd day of August, 2016.

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Annah Howard, Legal Secretary  
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