

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

RACHEL SINGER,
Charging Party,

-v-

TOM PATRICK CONSTRUCTION CO.,
Respondent

HRB CASE NO. 0160661

REMAND ORDER

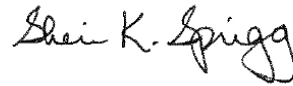
Charging Party, Rachel Singer (Singer), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of sex, national origin and retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Singer's allegations that Respondent, Tom Patrick Construction Co., unlawfully discriminated against Singer. The Department issued a Notice of Dismissal. Singer filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on May 16, 2017. Mark F. Higgins appeared and argued on behalf of Singer. Liesel Shoquist appeared and argued on behalf of Tom Patrick Construction Co..

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, based on the Department's failure to interview certain specified witnesses identified by the charging party, whose statements may, or may not, have corroborated the statements of other witnesses. 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 Singer's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 17th day of May, 2017.



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 17th day of May, 2017.

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