

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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PATRICIA THOMAS,  
Charging Party,

-v-

RAVALLI SERVICES CORPORATION,  
Respondent

HRB CASE NO. 0180111

REMAND ORDER

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Charging Party, Patricia Thomas (Thomas), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of sex and disability. Following an informal investigation, the Department determined that a preponderance of the evidence supported Thomas's allegations that she suffered sex discrimination due to harassment while employed, but also supported the claim of the Respondent, Ravalli Services Corporation (RSC), that it was not liable for the discrimination because it had exercised reasonable care to promptly correct and prevent the behavior by terminating the harasser. The Department issued a Notice of Dismissal. Thomas filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 14, 2018. Jill Gerdrum appeared and argued on behalf of Thomas. Kathryn S. Mahe and Leah T. Handelman appeared and argued on behalf of Ravalli Services Corporation.

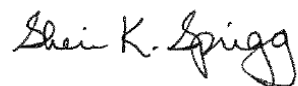
The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. The investigator failed to thoroughly investigate material questions of fact, including whether and to what extent the employer was aware of previous similar incidents of sexual harassment by the harasser and took appropriate disciplinary action to prevent further

harassment. The investigator's failure to review and consider the harasser's entire personnel file or to question RSC about its knowledge of and actions taken in response to previous similar incidents constitutes an abuse of discretion. 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 Patricia Thomas's objection is **sustained**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 12th day of October, 2018.



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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 12th day of October, 2018.

JILL GERDRUM  
AXILON LAW GROUP, PLLC  
MILLENNIUM BUILDING, SUITE 403  
125 BANK STREET  
MISSOULA, MT 59802

KATHRYN MAHE  
GARLINGTON, LOHN & ROBINSON, PLLP  
P.O. BOX 7909  
MISSOULA, MT 59807-7909



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Annah Howard, Legal Secretary  
Montana Human Rights Bureau