

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

FRANCES WRIGHT,
Charging Party,

-v-

BROADWATER HEALTH CENTER,
Respondent

HRB CASE NO. 0180100

REMAND ORDER

Charging Party, Frances Wright (Wright), filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of disability and retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Wright's allegations that Respondent, Broadwater Health Center, unlawfully discriminated or retaliated against Wright. The Department issued a Notice of Dismissal. Wright filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 14, 2018. Frances Wright appeared and argued on her own behalf. Bruce Fain appeared and argued on behalf of Broadwater Health Center.

Commissioner Mike Murray stated for the record that he knew Kyle Hopstad, Chief Executive Officer of Broadwater Health Center, over 40 years ago; however, the two men have not seen each other in approximately 20 years. Commissioner Murray did not believe this connection would affect his consideration of this matter. Ms. Wright had no objection to Commissioner Murray ruling on the matter.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Section 49-2-511(2), MCA. The Commission concludes the determination of the Department to dismiss the complaint in this case is an abuse of discretion. After reviewing the investigator's report and considering the arguments of the parties, the

Commission determines that there were material questions of fact that had not been thoroughly investigated, including when Broadwater Health Center had knowledge of Wright's disability and when Wright requested an accommodation for her disability. The lack of investigation into these issues is 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 Frances Wright'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.



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.

FRANCES WRIGHT
41 SKYVIEW LANE
TOWNSEND, MT 59644

BRUCE F. FAIN
CROWLEY FLECK, PLLP
P.O. BOX 2529
BILLINGS, MT 59103



Annah Howard, Legal Secretary
Montana Human Rights Bureau