

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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ADRIANNE COTTON,  
Charging Party,

-v-

MONTANA DEPARTMENT OF  
CORRECTIONS,  
Respondent

HRB CASE NO. 0190142

REMAND ORDER

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Charging Party Adrienne Cotton (Cotton) filed a complaint with the Department of Labor and Industry (Department) alleging unlawful discrimination in employment on the basis of retaliation. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Cotton’s allegations that Respondent, Montana Department of Corrections, unlawfully discriminated against Cotton. The Department issued a Notice of Dismissal. Cotton filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 20, 2019. Adrienne Cotton appeared and argued on her own behalf. Sarah Mazanec, attorney, appeared and argued on behalf of Montana Department of Corrections.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. Mont. Code Ann. § 49-2-511(2). 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 abused her discretion in concluding that the testimony from some witnesses identified by Cotton who witnessed or were affected by the Department of Corrections reorganization would have been duplicative or irrelevant to the analysis of the complaint. Therefore, the Commission sustains the objection and the case is hereby remanded for hearing to the Office of Administrative Hearings pursuant to Mont. Code Ann. § 49-2-505.

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 pursuant to Mont. Code Ann. § 49-2-504(2)(b).

IT IS HEREBY ORDERED, that Adrienne Cotton's objection is **SUSTAINED**. The Commission reopens and remands the case to the Office of Administrative Hearings for hearing.

DATED this 16th day of October 2019.

A handwritten signature in black ink, appearing to read "Timothy A. Tatarka". The signature is fluid and cursive, with a large initial "T" and "A".

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Timothy A. Tatarka, 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 16th day of October 2019.

Adrienne Cotton  
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Helena, MT 59602

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Annah Howard, Legal Secretary  
Montana Human Rights Bureau